

# EPC COMMISSION MINUTES & AGENDA

MONTH December

YEAR 1986

ADM-1-11  
December

MINUTES  
ENVIRONMENTAL PROTECTION COMMISSION  
Wallace State Office Building  
Des Moines, Iowa  
December 15-16, 1986

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building in Des Moines, Iowa on December 15 and 16, 1986 convening at 8:30 a.m. on December 15 and reconvening December 16 at 8:30 a.m.

MEMBERS PRESENT

Robert Schlutz, Charlotte Mohr, Richard Timmerman, Keith Uhl, Clark Yeager,  
Linda Appelgate, Gary Priebe, Wayne Geiselman, Catherine Dunn,  
Nancylee Siebenmann.

MEMBERS ABSENT

Donna Hammitt, Nancylee Siebenmann (a.m. only-December 15).

ADOPTION OF AGENDA

Director Larry Wilson stated that John Sarcone of the Attorney General's Office will address Item #4, Discussion on Pending Litigation on Chapter 135 Departmental Rules.

Director Wilson requested that Item #12, River Basin Association Information, be moved up to follow Item #4 since the department is working on an agreement with other states in the Missouri River Basin and there is information that the Commission needs to be aware of, both from the Attorney General's perspective as well as the Commission's.

Item #16 will be deleted as more time is needed to better prepare for this item.

Motion was made by Linda Appelgate to adopt the agenda as amended. Seconded by Charlotte Mohr. Motion carried unanimously.

ADOPTION OF MINUTES

Motion was made by Linda Appelgate to approve the minutes of November 12-13, 1986 as presented. Seconded by Wayne Geiselman. Motion carried unanimously.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

Iowa Department of Natural Resources

Environmental Protection Commission

RULEMAKING STATUS REPORT

December 1, 1986

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 2 - Public Information	10/27/86	11/19/86						
2. Ch. 3 - Submission of Information	10/27/86	11/19/86						
3. Ch. 5 - Rulemaking	11/12/86							
4. Ch. 6 - Declaratory Rulings	11/12/86							
5. Ch. 22, 23 PSD	11/12/86	12/03/86		12/21/86 12/30/86 1/06/87				
6. Ch. 64 - Design Standards (12, 14, 16, 18C)	12/15/86	*1/14/87						
7. Ch. 65 - Feedlots	11/12/86	12/03/86		12/23/86 12/30/86 1/05/87				
8. Ch. 135 - Underground Tank Monitoring	5/20/86	6/18/86	7/02/86	7/08/86	12/15/86	*12/15/86	*1/14/87	*2/18/87
9. Ch. 140, 151 Hazardous Waste Sites	7/29/86	8/27/86	9/10/86	9/18/86	12/15/86	*12/15/86	*1/14/87	*2/18/87

\*Projected

WWW:bog/C11337J02-01

MONTHLY VARIANCE REPORT

11/30/86

No. Facility	Program	Engineer	Subject	Decision	Date
1 Delta, City of	Wastewater Const.	French-Reneker	Lamp Poles In Lieu Of Manholes	approved	11/10/86
2 Delta, City of	Wastewater Const.	French-Reneker	Minimum Sewer Size	approved	11/10/86
3 Delta, City of	Wastewater Const.	French-Reneker	Sewer Grade	denied	11/10/86
4 Reese, Eloise	Flood Plain		Floodway Encroachment	approved	11/14/86

# REPORTS OF HAZARDOUS CONDITIONS

During the period of November 1, 1986 through November 30, 1986, reports of 24 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impacts	Responsible Party	Response and Corrective Actions
11/13/86 DUBUQUE	About 20 tons of a 28% ammonium nitrate fertilizer solution leaked from a storage tank near Cascade, Iowa on November 13, 1986 and ran to a ditch, through a culvert, and into a farmer's field.	Swiss Valley Ag Service Route 2 Monticello, Iowa	Pooled material was pumped off the ground and contaminated soil was excavated for land application.
11/14/86 POLK	The driver of a tanker truck left the area while an underground tank was being filled, and 200 gallons of gasoline overflowed at 65th and University in Windsor Heights, Iowa on November 14, 1986. The material spilled on the driveway, grass, and street.	Pester Derby 6500 University Avenue, Windsor Heights, Iowa	The service station flushed the material off the driveway with water. The fire department arrived and contained the product. Pooled gasoline was pumped up and residual amounts were absorbed with sand. Contaminated soil was excavated for disposal.

Numbers in Parentheses Represent Reports For The Same Period in Fiscal Year 1986

Month	Total # of Incidents Reported	Substance Type			Mode					
		Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	79	45	0	34	53	0	18	2	0	6
Nov	24 (36)	12 (21)	3 (6)	9 (9)	17 (23)	0 (1)	5 (6)	1 (2)	0 (0)	1 (4)

Total # of Incidents Per Field Office This Period

1	2	3	4	5	6
4	2	2	3	10	3



# Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Lehigh Portland Cement Co., Mason City (2)	Wastewater	Prohibited Discharges	Order/Penalty	11/6/86
Savage Sanitary Sewer District, Fort Dodge (2)	Wastewater	Monitoring & Reporting	Order/Penalty	11/6/86
City of Waukee (5)	Drinking Water	Radioactivity MCL and Chlorination	Order	11/6/86
City of Sully (5)	Drinking Water	Radioactivity MCL	Order	11/6/86
Waddell Bros. Metal Co., Scott County (6)	Air Quality	Open Burning	Order/Penalty	11/20/86
Jacobsma Gilts, Inc., O'Brien County (3)	Wastewater	Construction Without Permit, Prohibited Discharge	Order/Penalty	11/25/86
Francis Heaberlin, Warren County (5)	Floodplain	Channel Change	Order	11/25/86
James C. King, Warren County (5)	Floodplain	Channel Change	Order	11/25/86
Bill Shields, Warren County (5)	Floodplain	Channel Change	Order	11/25/86
Chico's Supper Club, Burr Oak (2)	Drinking Water	Monitoring, Operation Without Permit	Order/Penalty	11/26/86

### Summary of Administrative Penalties

The following administrative penalties are due:

<u>NAME</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
*Otter Creek Station	\$ 189	5-09-86
*New Shack Tavern	\$ 230	5-13-86
4-Way Tap	\$ 62	8-01-86
*Kit Kat Club	\$ 62	8-02-86
Broken Arrow Lounge	\$ 186	10-04-86
Shelter Shield	\$1,000	12-03-86
Lawrence Payne	\$ 700	12-05-86
Boatels, Inc.	\$1,000	12-14-86
Country Corner Cafe	\$ 400	12-21-86
Cedar Hills Apartments	\$1,000	12-29-86
Rayburn Mobile Home Court	\$ 212	12-29-86
Stratford Grain and Supply	\$1,000	12-29-86
K & K Truckstop	\$ 212	12-29-86
Des Moines YMCA	\$ 162	12-31-86
Rice Lake Water	\$ 212	12-31-86
Indian Creek Country Club	\$ 162	1-02-86
Lehigh Portland Cement	\$1,000	1-09-87
*Woodland Pork	\$1,000	1-11-87
Savage Sanitary Sewer Dist.	\$ 500	----
Waddell Bros. Metal	\$ 600	----
Jacobsma Gilts, Inc.	\$1,000	----
Chico's Supper Club	\$ 863	----

The following administrative penalties have been appealed:

<u>NAME</u>	<u>AMOUNT</u>
Iowa Power and Light	\$1,000
*Finlan Landfill	\$1,000
Besch/Ralston	\$ 500
Iowa Public Service	\$1,000
Kula and Boge	\$1,000
McConnell; Yoder Feed	\$1,000
Handi-Klasp, Inc.	\$1,000
Story Construction Co.	\$1,000
NW States Cement	\$1,000
Mahaska County SLF	\$ 600
Morris Inn Steak House	\$ 212

The following administrative penalties were paid in November:

<u>NAME</u>	<u>AMOUNT</u>
*Orchard MHP	\$ 62
Kopper Kettle, Inc.	\$ 100
William Jetter	\$1,000
Ag Products Terminal	\$1,000
NW Iowa Area SLF	\$ 300
Woolstock, City of	\$ 210
Karen's Cafe	\$ 50
IBP/Langenfeld	\$ 300
Bell-Watchers, Inc.	\$ 300
Tri-City Golf Club	\$ 177

Penalties were rescinded for the following:

Fairyland Park

\*Referred to the Attorney General

Department of Natural Resources  
Environmental Protection Commission  
Contested Cases  
December 1, 1986

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10-26-85 1-20-86	Frit Industries	Administrative Order Hazardous Waste Registry	HM	Lande	Settlement close.
9-14-84	Belmond, et. al.	Administrative Order	HC	Lande	Proposed decision 11-4-85; appealed.
10-17-85	City of Bevington	Administrative Order	WM	Hansen	Hearing continued.
10-23-85	Farmers Coop. Elevator Company	Permit Condition	WM	Hansen	Hearing continued.
1-23-86	Gelwein Soil Service	Administrative Order	WM	Lande	Hearing continued pending evaluation of test results.
3-28-86	Stee Larsen	Variance Denial	FP	Clerk	Proposed decision 6-27-86; appealed.
5-07-86	Iowa Power and Light	Administrative Order	Air	Lande	Hearing continued.
5-21-86	Beach and Ralston	Administrative Order	SW	Lande	Settlement close.
6-10-86	City of Hoopers	Water Supply Permit	MS	Hansen	Hearing continued; settlement close.
6-11-86	Reinholdt, Walter	Water Use Permit	MR	Clerk	Proposed decision 9-24-86; appealed.
6-12-86	ADM - Clinton	Administrative Order	Air	Lande	Hearing continued. Consent Order proposed.
7-30-86	IBP - Columbus Junction	NPDES Permit	WM	Hansen	Hearing set for 12-18-86.
9-10-86	Farmer's Mutual Coop	Administrative Order	WE/SW	Lande	New case; negotiating before filing.
9-10-86	Kula and Boge	Administrative Order	SW	Lande	New case; negotiating before filing.
9-15-86	Iowa Public Service	Administrative Order	Air	Lande	Settled; dismissed.

Department of Natural Resources  
Environmental Protection Commission  
Contested Cases  
December 1, 1988

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10/02/86	Long Branch Maint. Corp.	Administrative Order	US	Murphy	Hearing set for 12/10/86.
10/08/86	City of Howell	NPDES Permit	WU	Hanson	Hearing set for 12-17-86.
10/22/86	Yoder Feeds, Inc. et al	Administrative Order	WU/SU	Kennedy	Hearing set for 1-16-87.
10/27/86	Mount Airy, City of	Administrative Order	WU	Hanson	New case; negotiating before filing.
10/27/86	Union County/Wittstock	Permit Issuance	FP	Clark	Remanded by District Court.
10/28/86	Lemon Municipal Utilities	Administrative Order	WU	Hanson	New Case; negotiating before filing.
10/29/86	Hand-Kiepp Company, Inc.	Administrative Order	AQ/WU SW	Landa	Hearing set for 1-7-87.
11/04/86	Story Construction Co.	Administrative Order	AQ	Landa	Hearing set for 1-7-87.
11/05/86	Mt Love SLF	Administrative Order	SW	Kennedy	Settled.
11/05/86	Mahesh Co. SLF	Administrative Order	SW	Kennedy	Hearing set for 1-13-87.
11/05/86	Morris Inn Steakhouse	Administrative Order	US	Hanson	Hearing set for 1-14-87.
11/05/86	Kor-Bert, Inc.	Administrative Order	WU	Murphy	Settled
11/05/86	City of Klemme	Administrative Order	WU	Murphy	Settled
11/14/86	Gale Covered	Permit Condition	FP	Clark	New Case; negotiating before filing.
11/18/86	Northwestern States	Administrative Order	WU	Landa	New Case.

#### DISCUSSION OF PENDING LITIGATION ON CHAPTER 135, DEPARTMENTAL RULES

Chairman Robert Schlutz asked that the Commission go into closed session to discuss Item #4, Pending Litigation on Chapter 135, Departmental Rules. Mr. Schlutz stated that a motion is needed to go into closed session pursuant to Iowa Code Section 21.5C to discuss strategy with legal counsel in matters that are presently in litigation since the discussion would likely prejudice our position in that litigation.

Motion was made by Catherine Dunn to go into closed session. Seconded by Linda Appelgate.

Chairman Schlutz called for a roll call vote. "Yes" votes were cast by Commissioners Timmerman, Appelgate, Yeager, Uhl, Geiselman, Mohr, Priebe, Schlutz and Dunn. Motion carried 9 to 0.

Motion was made by Catherine Dunn to end the closed session. Seconded by Charlotte Mohr.

Chairman Schlutz called for a roll call vote. "Yes" votes were cast by Commissioners Timmerman, Appelgate, Yeager, Uhl, Gieselman, Mohr, Priebe, Schlutz and Dunn. Motion carried 9 to 0.

Chairman Schlutz informed the public that there was no action taken on Item #4 during the closed session.

#### RIVER BASIN ASSOCIATION MEMBERSHIP

J. Edward Brown, State Water Coordinator, presented the following item.

During the November meeting, the Commission indicated an interest in receiving more information about the activities of the Missouri River Basin States Association and the Upper Mississippi River Basin Association. As a result, J. Edward Brown, Iowa's representative to these two groups, will make a presentation to the Commission. Mr. Brown will discuss the activities of the Associations and their relationship to our own efforts on our border rivers. He will also talk about the organizations' finances and dues structure.

Mr. Brown explained why we should be members of the Associations stating that it represents a good opportunity for the states that are involved to get together on a policy level and discuss their resources, in this case the Missouri and Mississippi Rivers, and how they are being managed. In both cases, there is much state and federal activity involved in those river areas.

Mr. Brown stated that there is a solid foundation in the Associations, from the standpoint of communications, which is very important. Some of the critical projects in progress on both rivers are federal activities that amount to work that could be significantly beneficial to Iowa's interests. Membership in the Associations assure that Iowa's concerns are addressed. Mr. Brown explained several situations regarding same. He then distributed handouts and stated that page one referred to mitigation money for the

Missouri River situation and page two described the environmental management programs. He also presented budgetary information for FY 87 for each Association and a list of allocations of MSBA Reserve Funds to States.

Mr. Brown stated that the Attorney General's Office has also been involved with the department in terms of discussions with other states in the Missouri Basin regarding agreement in terms of allocation of the uses of water. He then invited a representative from the Attorney General's Office to speak.

Mike Smith, of the Attorney General's Office, stated he would simply echo what Mr. Brown said but would ask the Commission to keep in mind that the federal government has spent an enormous sum of money to alter the Missouri and the Mississippi River systems. Those physical alterations have very large impacts on how the rivers behave as they flow past Iowa and how we can use them. The way the physical systems are managed also has a large impact on the water usage and, to some extent, how much water is available to Iowa.

Mr. Smith stated that the states need to keep abreast of what is going on with federal decision making, federal planning, and what each other is doing. The Attorney General's office urges the Commission to take into consideration the value of the continuing dialogue with these other states. The Basin Associations can be a vehicle for that continuing dialogue and sharing of information.

#### PUBLIC PARTICIPATION

Chairman Schlutz announced public participation at 11:00 a.m.

Phil Brunk with Iowa Southern Utilities Company spoke regarding the sulphur dioxide emissions limits plan. Mr. Brunk stated that industry has had no communication with the department staff on this proposal, particularly on the sites of the proposal. The department is proposing that modeling be done in 68 different cities. Mr. Brunk stated that industry would like to have some input into exactly how the plan is put together and what plants are modeled, what information is needed, and most importantly, what their alternatives are. Mr. Brunk said his suggestion is to start some dialogue and hopefully a solution can be arrived at that will satisfy the department, EPA, and industry's interests.

Ted Yanacek with the Farm Bureau Affairs Council spoke regarding Item #14, Ground Water Protection Strategy. Mr. Yanacek stated that his primary purpose for speaking is to urge the Commission to separate from the legislation some of the policy decisions and recommendations they may be making on ground water. One of the recommendations in the draft provided by the staff is that there be a legislative initiative. At a meeting last Friday, a consensus was reached on part of the policy, but some of the specific language with respect to the draft legislation needs considerable work. Mr. Yanacek urged the Commission that while they make certain decisions and recommendations with respect to policy areas concerning Iowa's ground water, that they delay any action on the draft legislation until questions that have been raised are more fully addressed.

FY88 BUDGET REQUEST APPROVAL

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Concurrence of the Environmental Protection Commission is respectfully requested for the staff recommendations regarding the FY 1988 budget request to the Governor's Office and the General Assembly.

Briefly, the budget addresses the following issues:

1. Funding for all of the positions included in the approved staffing plan for the Department of Natural Resources. Currently, the agency is operating with a large number of vacancies because the budget approved by the last General Assembly was not adequate to fund the positions established within the Department of Natural Resources. As a result, the agency is currently operating with a large number of vacancies that are affecting program delivery and facility maintenance.

2. The request includes funds to replace vehicles in FY 1988 and also for high priority equipment replacement needs. Expenditures in this area have been reduced the last several years because of budget shortfalls.

3. Funds are requested to establish reasonable levels of facility maintenance, primarily in parks, recreation areas, and state forests. Facility maintenance expenditures have decreased significantly as a result of previous budget shortfalls.

4. A substantial request is made in terms of General Fund appropriations for capital acquisition and development. Generally, projects that have been on the "drawing boards" for quite a while are requested. These relate to repairing infrastructures such as dams and water systems; and initiating the legislative mandate related to the Protected Water Areas Program.

Included in the budget request are graphs, priority ranking schedules for the agency and each division, financial schedules for the Department and each division, and detailed schedules related to the major capital programs: Fish and Wildlife, Lottery, Marine Fuel Tax, Park User Fee Fund, and General Fund. Priorities are as indicated on the ranking schedules.

In accordance with direction from the Environmental Protection Commission, the request for membership fees relating to the Mississippi and Missouri River Basin Commissions have been deleted. Funds for the agency's share of the Washington, D.C., liaison office have been deleted. No other substantive changes have been made to the request as compared to the earlier draft request reviewed with each Commission. Concurrence in this budget request is respectfully requested.

Discussion followed. Motion was made by Keith Uhl to approve the FY 88 budget as presented. Seconded by Clark Yeager.

Chairman Schlutz stated that the Commission needs to discuss possible changes in regards to the Environmental Protection Commission approving the budget for the Natural Resource Commission.

Discussion followed regarding the River Basin Associations being deleted from the budget. Director Wilson stated that he also at one time felt the Department was getting nothing but a paper chase out of the Associations, but now believes there are some changes being made in their personnel. Mr. Brown and Director Wilson will be meeting to discuss some of the salaries for the Missouri River Basin Association personnel. Director Wilson recommended that the Commission include the \$50,000 for these Associations in the budget. He also stated that once the money is approved, that money goes to the River Basin Associations. Jim Brown, as our representative from Iowa, participates in that money being spent and the department relies heavily on its representative that those funds are spent fairly and judiciously.

Keith Uhl stated that based upon the recommendation from Director Wilson, he would like to withdraw his previous motion with approval of a second, and moved that the budget be approved with the appropriate dues allocations for both Associations. Clark Yeager withdrew his second to the previous motion and then seconded the present motion. Motion carried unanimously.

#### SUPERFUND SITE UPDATE

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Mr. Stokes stated that at the October meeting the Commission requested an update specifically with reference to the Aidex Superfund Site. Mr. Stokes stated that the EPA awarded the remediation contract to Severson Containment Corporation of Niagra Falls on July 10, 1986 and clean-up activities for phase three began on site in August of 1986. The Department has been conducting regular inspection of that work as they have been progressing.

The original contract called for 18,300 cubic yards of soil, with concentration of total pesticides exceeding 10 parts/million, be disposed of at an EPA-approved facility. That work is completed, and approximately 20,000 cubic yards of material was excavated. The contract also called for removal of 570 cubic yards of buried, bulked and drummed pesticide waste which was approximately 100 barrels of material, again, with disposal at the proper EPA-approved facility. That has been accomplished as well. The third activity called for removal and disposal of approximately 900 linear feet of railroad track and the ballast from the railroad tracks at the facility. The rails and couplings were left on site and were to be decontaminated. That work has been accomplished. Filling in the excavated areas where the 20,000 cubic yards of material was excavated has also been completed. There is still some final site dressing to be done in terms of seeding the site. The buildings have been vacuumed. The floors and walls have been washed, the false ceilings and other types of paneling have been removed and have also been disposed of at a proper facility.

There are 20 ground water monitoring wells surrounding the site and some monitoring installations located off site at some private well areas. Soil, air and water sampling and testing has occurred throughout all of this. Essentially, all of the work, in terms of remediation of the site has been completed. Grading, seeding, and mulching of the entire site will be done this spring. Installation of protective casings and guardposts around the



monitoring wells on the facility and general site clean-up will also be done this spring. The contractor is to provide a final report.

Mr. Stokes explained the costs involved and stated that it is still within the \$7.8 million estimated to do the work.

#### HAZARDOUS WASTE SITING CRITERIA RULES--CHAPTER 140 AND 151

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

At the October meeting of the Environmental Protection Commission, rules were presented for final adoption which addressed criteria for the siting of a state-owned or operated hazardous waste disposal facility. The Commission delayed action on these rules and directed the Department to apply the exclusionary criteria to the state of Iowa to determine whether the criteria were practical and workable. The Commission will be presented the results of applying the exclusionary criteria at the Commission meeting. The Commission will be requested to adopt the rules as presented at the October meeting as final rules.

Mr. Stokes presented a map of Iowa showing which areas remained after exclusionary criteria was applied. The areas that survived the exclusionary criteria would still be eligible for further consideration when applying detailed criteria. He stated that this map does not represent any kind of a decision as to where a site would be placed. Detailed site characterization would have to take place and certain areas that survived at least the first cut may not, in fact, be suitable for placement of a facility. That decision can only be made when we get to the detailed site characterization. Discussion followed.

Motion was made by Richard Timmerman to approve Final Rule--Chapters 140 and 151, Hazardous Waste Siting Criteria Rules. Seconded by Charlotte Mohr. Motion carried unanimously.

#### REVISIONS TO CHAPTERS 12, 14, 16 AND 18C

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Changes are proposed in Chapters 12 and 18C of the design standards to implement the decisions of the Commission made on May 20, 1986, and June 16, 1986. Changes are also proposed in Chapters 14, 16 and 18C to address the concerns of the Wastewater Treatment Committee of the Commission expressed in response to question numbers 1, 11, 19, 30, 31, 32 and 34 of the questionnaire used by this committee in their review of all design standards.

If the Commission authorizes it, three public hearings on the proposed changes in the standards can be held throughout the state beginning on February 3, 1987, and written and oral comments can be received through a date that will be set ten days after the date of the final hearing. The notice will be published on January 14, 1987. The results of the comments and a recommendation is scheduled to be brought back to the Commission at the April, 1987 meeting.

Following are descriptions of the proposed changes in the standards.

Chapter 12: Incorporate the cost-saving changes for unsewered communities developed by an ASCE sponsored committee. These include six-inch sewers, lower minimum sewer velocities and flatter slopes, increased manhole spacing, cleanouts and curved and variable grade sewers. In addition, it is proposed to correct several minor errors in the standard and to delete asbestos-cement pipe due to its manufacture and use being eliminated on a national scale.

Chapter 14: Add a section requiring plant design to meet effluent limitations without reference to flows, delete wording which ties permit limitations to defined flows, and add a prohibited wastes section similar to that in Chapter 18A.

Chapter 16: Revise surface settling rates to be consistent with the ten states standards.

Chapter 18C: Permit baffles to form the quiescent cell, delete the requirement for a protective soil cover over synthetic liners, delete the requirement for a minimum of two surface aerators per cell except for the first cell, and change the current requirement for a spare surface aerator for standby to require only a motor and prop assembly (or drive train).

ENVIRONMENTAL PROTECTION COMMISSION (567)  
Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.105 as amended by 1986 Iowa Acts, Senate File 2175, section 1887, and 1985 Iowa Code supplement section 455B.173 as amended by 1986 Iowa Acts, Senate File 2175, section 1899A, the Environmental Protection Commission for the Department of Natural Resources, formerly the Water, Air and Waste Management Commission for the Department of Water, Air and Waste Management, amends the subrule which provides engineering design standards for several aspects of wastewater disposal systems, in Chapter 64, "Wastewater Construction and Operation Permits," of Title IV, "Wastewater Treatment and Disposal." This rule may have an impact on small businesses.

Part I of Division III of Iowa Code Chapter 455B (455B.171-455B.187), as amended by 1986 Iowa Acts, Senate File 2175, sections 1899, 1899A and 1899B, authorizes the department to administer, among other things, a construction permit program for wastewater disposal systems. Iowa Code sections 455B.173(3) and (8) as amended by 1986 Iowa Acts, Senate File 2175, section 1899A, require the Commission to adopt rules relating to the location and construction of disposal systems. During the past several years, the department has completed the compilation of all pertinent design standards into a single manual which can be used by the public and by design engineers. The amendments being proposed are changes to Chapters 12, 14, 16 and 18C of the design standards for wastewater disposal systems which are adopted by reference in 567-64.2(9)"b". The date for adoption by the Commission of these rule amendments is projected to be April, 1987. This projected date for adoption is reflected in Item 1 of this Notice of Intended Action.

The design standard chapters of 64.2(9)"b" which the Commission proposes to amend are more specifically, Chapter 12: Iowa Standards for Sewer Systems,

Chapter 14: Wastewater Treatment Works, Chapter 16: Settling, and Chapter 18C: Wastewater Treatment Ponds. Amendments to Chapter 12 concern cost saving changes concerning unsewered communities. The changes to Chapter 12 of the standards include the allowance of the following for unsewered communities: six-inch sewers for the last 800 feet of dead ends, minimum sewer velocities of 1.5 feet per second flowing full and flatter minimum slopes, maximum manhole spacing of 800 feet, cleanouts at the ends of sewers, and curved and variable grade sewers. These items are now being permitted by variances and should be incorporated in the standards. Section 12.4a has been changed to eliminate the use of asbestos-cement pipe for sanitary sewers since its manufacture and use are being eliminated on a national scale.

Amendments to Chapter 14 include adding a section requiring plant design to meet effluent limitations without reference to flows in section 14.3 and deleting the wording which ties permit limitations to defined flows in sections 14.4.5.1, 14.4.5.4 and 14.4.6.2. A prohibited wastes section similar to that found in section 18A.4.2 is added to this chapter in section 14.4.1.

Amendments to Chapter 16 include revision of surface settling rates (overflow rates) to be consistent with "Recommended Standards for Sewage Works" (Ten States Standards) as adopted by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, now known as the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers. The revisions are found in sections 16.3.2.2, 16.3.2.3, 16.3.2.4.1, and 16.3.2.4.2.

Amendments to Chapter 18C include: revision of the standard to permit baffles in the final cell to form the quiescent cell in sections 18C.6.1.1, 18C.6.1.2, 18C.6.2, and 18C.7.1.1, deletion of the requirement for a protective soil cover over synthetic liners in section 18C.7.3.2, and deletion of the requirement for a minimum of two surface aerators per cell except for the first cell in sections 18C.6.4.1c and 18C.6.4.6a. Section 18C.6.4.1c is revised to change the current requirement for a spare surface aerator for standby to a motor and prop assembly (or drive train). Other changes have been made to correct typographical errors in the design standards in these chapters.

Any interested person may file written suggestions or comments on the proposed rule changes through February 20, 1987. Such written materials should be directed to Wayne Reed, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Persons who want to convey their views orally may contact Wayne Reed at 515/281-6853 by that date. Persons are also invited to present oral or written comments at public hearings which will be held on February 3, 1987 at 11:00 a.m. at the Iowa Department of Natural Resources, Geological Survey Bureau, Trowbridge Hall, 123 North Capitol, Iowa City, Iowa 52242; on February 5, 1987 at 11:00 a.m. at the West Pottawattamie County Extension Service, 1705 McPherson, Suite GL100, Council Bluffs, Iowa 51501; and on February 10, 1987 at 11:00 a.m. in the fifth floor east conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319. Copies of the proposed design standards may be obtained from Wayne Reed, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319.

These rules are intended to implement Iowa Code Chapter 455B, Division III, Part I, as amended by 1986 Iowa Acts, Senate File 2175, sections 1899, 1899A and 1899B.

---

ITEM 1. Amend subrule 64.2(a), paragraph "b", as follows:

b. The chapters of the "Iowa Wastewater Facilities Design Standards"\* that apply to wastewater facilities projects, and the date of adoption of those chapters are:

<u>Chapter</u>	<u>Date Of Adoption</u>
11. Project submittals	April 25, 1979
12. Iowa Standards for Sewer Systems	September 6, 1978 (Amended March 28, 1979 and April, 1987)
13. Wastewater pumping stations	March 19, 1985
14. Wastewater treatment works	March 22, 1984 (Amended April, 1987)
15. Screening, grit removal & flow equalization	February 18, 1986
16. Settling	March 22, 1984 (Amended April, 1987)
17. Sludge handling & disposal	March 26, 1980
18. Biological treatment	Reserved
A. Fixed film media treatment	October 21, 1985
B. Activated sludge	March 22, 1984
C. Wastewater treatment ponds	May 20, 1986 (Amended April, 1987)
19. Supplemental treatment processes	November 13, 1986
20. Disinfection	February 18, 1986
21. Land application of wastewater	April 25, 1979

---

December 16, 1986

---

Larry J. Wilson, Director

Mr. Stokes stated that in spring of this year, various questions arose as to the Department's Wastewater Design Standards. It became apparent having been adopted in the late 1970's the standards were in need of general review. The Commission then formed an advisory task group who supplied the Department with a statement of several suggestions and recommendations they had for changes. Mr. Stokes stated, that in the Notice being presented, there are changes the staff is proposing to make consistent with some of the recommendations provided by the advisory task group. Also, some changes were made in terms of cleaning up some of the language. Mr. Stokes pointed out several of the main proposed changes. He stated that what the Department would take to Notice to receive comment on is not only the changes that staff has proposed but the other recommendations that were made as well, to get more broad-based input from the public.

Discussion followed regarding whether or not the Commissioners want to take to Notice of Intended Action and public hearing something they do not intend to endorse. Chairman Schlutz suggested that the advisory task group meet once more to go over the answers staff provided to some of the questions asked by the task group, then come back next month and be prepared to vote on it.

Motion was made by Catherine Dunn that the advisory task group review the Department's response to the Committee's recommendations and report at the next meeting. Seconded by Gary Priebe. Motion carried unanimously.

Chairman Schlutz stated that the Commission would like to discuss the Ground Water Strategy Plan somewhat today, but would not take any action until tomorrow.

#### GROUND WATER PROTECTION STRATEGY

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Section 455B.263 Code of Iowa requires the Commission to deliver to the General Assembly by January 15, 1987 "a plan embodying a general ground water protection strategy for this state which considers the effects of potential sources of ground water contaminations on ground water quality."

A draft of the plan prepared by staff for the Commission has been provided to the Commission separately.

The plan and its recommendations will be presented to the Commission for approval.

Mr. Combs briefed the Commission on code requirements and deadlines for submission of the plan to the General Assembly. He stated that, in putting the plan together, staff worked with several groups and also had public meetings around the state. Mr. Combs then invited Bernie Hoyer, who was project manager for this project, to present the initiatives and recommendations that are contained in the plan.

Mr. Hoyer stated that this is a plan of direction to get started and will need adjustments. Mr. Hoyer explained how the 13 sources of contamination were ranked and stated that from that ranking the various initiatives were proposed. He discussed the plan in detail as he went over the initiatives and recommendations contained therein.

Discussion followed regarding nondegradation policy, prevention of contamination, cost-share programs, the ten-year agricultural plan, standards, and \$20 million per year cost to maintain.

Chairman Schlutz asked Larry Bean, Administrator of the Energy Conservation Trust Fund, to explain how the ground water plan is being funded with the oil overcharge money.

Mr. Bean stated that he and the four other members of the Energy Conservation Trust Fund have made recommendations for appropriations from the trust fund to the Governor. The proposal for funding the Ground Water Protection Strategy over a five-year period is as follows: \$13.4 million for the Ground Water Information Initiative; \$16 million for the Ten-Year Agricultural Initiative; \$5.3 million for the Accelerated Problem Assessment Initiative; \$600,000 for the Comprehensive Waste Management Initiative; and \$1.5 million for the Storage Tank Program Initiative. The total estimate is \$36.8 million over

five years. It is estimated there will be other funding at approximately \$24 million from other sources such as EPA, U.S. Geological Survey, National Institute of Health, etc.

Mr. Hoyer then continued to present in detail the recommendations listed in the plan, stating that the recommendations are related to the initiatives. A lengthy discussion followed regarding charting priorities, changes in format of the plan, funding after the initial five years, degradation, nondegradation, cost-sharing, and agricultural drainage wells. There was much discussion on legislation, and Director Wilson stated that after the plan is formally adopted by the Commission in final form, the Commission cannot be too far behind with legislation. The other option would be not to do anything regarding legislation and leave it up to the legislators to start their own. The Director suggested the Commission propose their own legislation. It was decided that further discussion on the Ground Water Strategy Plan will take place at the end of the agenda tomorrow.

Chairman Schlutz adjourned the meeting at 5:00 p.m. on Monday, December 15, 1986.

MEETING RECONVENES 8:30 A.M., DECEMBER 16

The meeting was called to order by Chairman Robert Schlutz at 8:30 a.m. on Tuesday, December 16, 1986.

REFERRALS TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4).

Terrace Hill Sanitary District--wastewater monitoring  
Broken Arrow Lounge--water supply monitoring  
City of Klemme, and Kor-Bert, Inc.--wastewater discharge

Terrace Hill Sanitary District. Mr. Combs briefed the Commission on the history of this case and recommended referral to the Attorney General's Office to enter a consent decree.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Nancylee Siebermann. Motion carried unanimously.

Broken Arrow Lounge. Mr. Combs stated that last week staff had a telephone conversation with Mr. O'Rourke, owner of this facility, and he indicated he would be willing to pay the administrative penalty and to comply. Staff spoke with him yesterday, and he told them the check was in the mail. Mr. Combs stated that the Department would like to go ahead with the referral and if the check is received by the end of the week, the Department would not submit this for referral.



Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office if the check is not received this week. Seconded by Catherine Dunn.

Richard Timmerman stated he has a problem with the Commission referring something, then letting the Department make the decision whether or not to use the Commission's referral.

Keith Uhl stated that Commissioner Siebenmann's motion would be the most expedient thing to do, but stated that, in his opinion, the Commission does not have the authority to make conditional referrals. He said the Commission could be setting a precedent for other conditional referrals.

Nancylee Siebenmann withdrew her motion. Catherine Dunn withdrew her second.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Catherine Dunn. Motion carried unanimously.

City of Klemme and Korbett, Inc. Mr. Combs briefed the Commission on the history of this case and recommended referral to the Attorney General's Office to enter a consent decree. Discussion followed.

Motion was made by Catherine Dunn for referral to the Attorney General's Office. Seconded by Wayne Gieselman. Motion carried unanimously.

Mr. Combs stated that he would like to show slides of a case that has already been referred to the Attorney General's Office. He stated that there was another violation at Woodland Park on December 6, 1986. Mr. Combs explained that on that particular day there were some deer hunters in the area who observed animal wastes flowing in the stream and the pipe it was coming from (located on Woodland Park property). Our inspectors, in checking it out, determined that there was fresh animal waste in the upstream end of the pipe.

Nancylee Siebenmann asked about the status of the situation as far as the Attorney General's Office is concerned.

Mike Murphy replied that the Department is waiting for some test results from the laboratory and has already filed an action in the case seeking a temporary injunction. The Attorney General's Office wants to get the full report because if it is as bad as it appears, they may want to consider even more severe action. Their office has indicated they would go to court to seek a temporary injunction.

Keith Uhl asked if the Department has the authority to inform the local county attorney that has jurisdiction over criminal matters regarding the situation. Mr. Murphy stated that that is something to be considered and further explained that this type of thing could be handled through the court criminally.

#### WALTER H. REINHOLDT APPEAL OF PROPOSED CONTESTED CASE DECISION

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On May 14, 1986, the Department issued a water use permit to Walter H. Reinholdt, authorizing him to withdraw water for irrigation. This permit extended irrigation authorization originally granted in a permit issued on July 19, 1976, which was due to terminate on June 18, 1986. The new permit contained a condition not found in the original permit, requiring Mr. Reinholdt to submit and follow a soil conservation plan for the irrigated land within approximately two years. This condition was based on an administrative rule which became effective on April 21, 1982 requiring soil conservation plans as a prerequisite for irrigating highly erodible land.

Because of the soil conservation plan condition, Mr. Reinholdt appealed the Department's decision and a contested case hearing was conducted. Administrative Hearing Officer Amy Christensen Couch rendered the attached proposed decision, and Mr. Reinholdt filed a notice of appeal to the Commission on October 20, 1986. Neither Mr. Reinholdt nor the Department has filed a brief in this matter and, at this time, no requests for oral argument have been made. The hearing record, including audio tape cassettes of the hearing, is available for review at the Commission's convenience.

The Commission may reverse or modify the proposed decision by substituting its own final decision, or may affirm and adopt the proposed decision as its final decision.

Motion was made by Catherine Dunn to uphold the decision of the hearing officer. Seconded by Nancy Lee Siebenmann. Motion carried unanimously.

#### STAN LARSEN APPEAL OF PROPOSED CONTESTED CASE DECISION

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Department has approved Cedar Falls' flood plain management ordinances, and thereby delegated flood plain permit authority to Cedar Falls. However, like all other local governments with state-delegated flood plain authority, the city of Cedar Falls must obtain approval from the Department before it may authorize variances from its ordinance provisions. In early 1986, Stan Larsen requested a variance to construct a new residential structure in the floodway of the Cedar River. Cedar Falls informed the Department of the variance request, and by letter dated February 20, 1986 the Department responded that it could not concur with the issuance of a variance. Cedar Falls then approved Mr. Larsen's variance request subject to his obtaining approval from the Department. Mr. Larsen appealed the Department's position, and a contested case hearing was held on May 21, 1986.

On June 27, 1986, Administrative Hearing Officer Amy Christensen Couch rendered a proposed decision affirming the Department's position in all respects. On July 24, 1986, Mr. Larsen filed a notice of appeal to the Commission. The proposed decision, Mr. Larsen's brief and the Department's reply brief are attached. The hearing record, including audio tape cassettes of the hearing, is available for review at the Commission's convenience.

The Commission may reverse or modify the proposed decision and substitute its own final decision, or affirm and adopt the proposed decision as its final decision.



At the October, 1986 meeting the Commission appointed a subcommittee of Wayne Gieselman and Keith Uhl to review this case and present a recommended course of action to the entire Commission at the December, 1986 meeting.

Wayne Gieselman reported that he and Keith Uhl feel that the hearing officer's decision should be upheld. He stated that Mr. Stan Larsen, who owns a lot on the Cedar River along Cottage Row, had requested permission from the City of Cedar Falls, to build a house on the lot. The city has a floodplain zoning ordinance approved by this Department that does not allow them to grant variances to that ordinance as the house is located in a floodway area. It is located in an area that is not acceptable during flood times, as there is no way to get in and out of this particular spot, virtually, at least once a year. The city did grant the variance, and it was subsequently denied by this Department. The essence of the hearing officer's decision is to say that the variance could be denied because it does comply with the law and enforces the policy of the state, regarding development in floodways, that has been in effect for at least 20 years. It is basically the same way the Department has responded to any kind of floodway request, in that area or anywhere in the state, for that period of time. The decision merely continues the policy of rules the Department has had for a number of years.

Motion was made by Wayne Gieselman to uphold the decision of the hearing officer. Seconded by Nancylee Siebermann. Motion carried unanimously.

#### HAZARDOUS WASTE STORAGE FACILITY PLAN

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Senate File 463 of the 71st General Assembly directs the Department to "submit a plan for the siting and construction of an above-ground facility for the long-term storage of hazardous wastes." This plan is to be submitted to the General Assembly by January 1, 1987.

The plan prepared by the Department has been supplied to the Commission separately from this agenda. It has received the review of an advisory panel consisting of representatives of environmental groups, business and industry groups, and others knowledgeable about the subject. Three public hearings have been held on the plan.

The plan concludes that Iowa needs to develop a means for the disposal of hazardous wastes generated in Iowa that is environmentally safe, economically viable and will meet disposal needs for the foreseeable future. The disposal means can be provided by a privately owned facility, a state-owned facility, or a multi-state facility.

The plan recommends that the General Assembly:

1. Assign responsibility to a state agency to develop a facility for the disposal of hazardous wastes generated in Iowa.
2. Provide funding for the project.

3. Firmly and continuously support the development of this necessary though potentially unpopular facility.

The Department requests that the Commission endorse the plan for submission to the General Assembly.

Mr. Combs explained the plan in detail. Discussion followed regarding methodology, incineration treatment, amount of waste, legislation for designating a waste authority, funding mechanism, and cost per ton/waste.

Keith Uhl inquired as to what point in time staff is going to involve the Commission regarding the drafting of legislation pertaining to creation of a waste management authority and a funding mechanism for a facility.

Mr. Combs responded that as soon as staff has a draft they feel has the parts needed in it, with discussion of the particular elements, direction, etc., the Commission would be notified.

Mr. Uhl stated he feels that is too late and that a subcommittee should be appointed to work on just what the waste management authority is going to be, who is going to be on it, and how it is going to operate. There should also be input from the Commission regarding the funding mechanism.

Catherine Dunn stated she concurs with what Mr. Uhl said in that the Commissioners would be better able to deal with this if they had some Commission input prior to receiving the plans, but in looking at the directive with submission to the General Assembly by the January 1 deadline she feels it should be submitted.

Motion was made by Catherine Dunn to submit the Hazardous Waste Storage Facility Plan to the General Assembly. Seconded by Wayne Gieselman.

Nancylee Siebenmann questioned whether they have looked at all contingencies well enough to submit the plan to the legislature.

Chairman Schlutz asked Allen Thoms, a former Commission member who has done some work on this, if he had any comments.

Mr. Thoms stated that he has participated in the advisory group that looked at this report. He stated he has no objections with the plan, his only concern is that he would like to see private sector involvement pursued. John Deere Company has submitted a report pertaining to private sector involvement and has recommended there be a study to examine how you could involve the private sector. Mr. Thoms suggested it be included in the report that there has been interest from the private sector. He feels that the recommendation to look at the private sector partnership arrangement with the state and developing that overall projection could give the legislature some direction.

Keith Uhl stated that he did not know if it would be appropriate for the Commission or Department to integrate a private study into the state report. he said he feels it would be appropriate to develop a "sense of the Commission" type letter stating that the Commission recognizes the need for

the possibility of joint venture financing to bring this about in the State of Iowa. The John Deere study could be used as an example of the initiatives that can be done in this area.

Discussion followed regarding same. Director Wilson commented that he likes the idea of sending the letter from the Commission stressing private sector involvement. He also stated that it is appropriate that a subcommittee from this Commission be appointed to work with staff in drafting of the legislation.

Chairman Schlutz then called for a vote on Catherine Dunn's motion to submit the Hazardous Waste Storage Facility Plan to the General Assembly. Motion carried unanimously.

Motion was made by Catherine Dunn to send, in conjunction with the Hazardous Waste Storage Facility Plan, a letter encouraging joint ventures between the private sector and government in the area of hazardous waste storage and disposal. Seconded by Linda Appelgate. Motion carried unanimously.

Commissioners Appelgate, Uhl, and Timmerman were appointed to the subcommittee to work with staff on legislation and the letter to accompany the plan.

#### LEAKING UNDERGROUND STORAGE TANK (LUST) RULES--CHAPTER 135

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

At the October meeting of the Environmental Protection Commission, rules were presented for final adoption which addressed regulation of underground storage tanks. The Commission delayed action on these rules and appointed an ad hoc committee to review the various rules proposals and public comment on rules with the purpose of trying to fashion a consensus on a proper course of action concerning the proposed regulation. The Commission will be given a report of the deliberations and recommendations of the ad hoc committee. The Commission will be requested to adopt final rules addressing this subject.

Mr. Stokes recapped what has happened to date with these rules, then referred to Richard Timmerman to give a report of the LUST subcommittee.

Richard Timmerman thanked the people who worked on the subcommittee. He reported that EPA will have rules forthcoming in February, 1987 regarding LUST, and the Department cannot be more restrictive than EPA. He stated that the committee looked at the inventory control procedures, at various slides and films, and he personally visited six petroleum installations around the state. Based upon that input, the Commission has four options as follows: 1) do nothing; 2) adopt original rules that went to public hearing in June; 3) adopt the rules that were presented to the Commission in October; 4) Adopt the revised rules sent with the December packet, these would need to be emergency adopted and then go to public hearing. Mr. Timmerman then explained in detail the proposed changes. Discussion followed regarding sniffer wells, tightness testing, secondary containment, EPA rules, prevention of leaks, monitoring and compliance dates.

There was a lengthy discussion regarding the Commission rules being more stringent than EPA's.

Allan Stokes stated that the legislature built into the law, that in the event EPA promulgates rules, the Commission shall immediately take steps to change their rules so they are not more stringent than federal regulations. Mr. Stokes stated that anything the Commission adopts now will be more stringent than the federal government because they do not have anything in place except for the interim prohibitions. Whatever the Commission adopts, when EPA finally adopts something the Commission is duty bound under the intent of the language to go back and change their rules. Mr. Stokes stated that he does not think that would require individuals to go back and undo what the Department required them to put in, but anyone who puts in anything after that is going to have to comply with new rules that will have to be adopted by the Commission.

Wayne Gieselman asked what the difference was in these rules and the rules that were presented before.

Richard Timmerman stated that the past rules required ground water monitoring for all substances. Now they are requiring secondary containment for nonpetroleum substances and the option of secondary containment, or ground water monitoring, or sniffer wells for petroleum substances.

Discussion followed regarding the inventory control issue and the grandfather issue. Mr. Timmerman stated that one issue which was brought up was in 125.9(4) regarding the last sentence which reads: "All elevations shall be referenced to a local benchmark." Discussion there pertinent to what exactly was a suitable benchmark. Mr. Timmerman stated that the proposed language for a benchmark is as follows: Permanent markers onsite such as a buried monument, a permanent mark on the side of a brick building, or the floor of a building are suitable benchmarks. Drives or other structures that may be subject to damage, replacement, or changes in elevation due to frost heave are not reliable benchmarks and should be avoided.

Motion was made by Richard Timmerman to approve Emergency Rule--Chapter 135, Leaking Underground Storage Tank Rules with the benchmark change as proposed. Seconded by Gary Priebe.

Discussion followed.

Chairman Schlutz called for a roll call vote.

"Yes" votes were cast by Commissioners Timmerman, Yeager, Uhl, Gieselman, Mohr, Priebe, Siebermann, Dunn, and Schlutz. "No" vote was cast by Commissioner Appelgate. Motion carried 9 to 1.

#### GROUND WATER PROTECTION STRATEGY (Continued)

Catherine Dunn stated she feels the Commission needs to decide whether they agree or disagree with each of the recommendations and initiatives. She suggested that the Commission form a committee to deal with those items where there is disagreement, as well as the legislative section. The committee should also look at possible format.

Discussion followed regarding the first recommendation.

Motion was made by Catherine Dunn that this recommendation be referred to the committee. Seconded by Wayne Gieselman.

Discussion followed concerning the meaning of nondegradation, further contamination, what to do with present contamination, etc.

Chairman Schlutz decided, rather than voting on each recommendation, the Commission would decide by consensus what should go to committee for further study.

Catherine Dunn withdrew her motion to refer the first recommendation to the committee. Wayne Gieselman withdrew his second.

Recommendations to be referred to committee for further study are as follows:

First recommendation — should define nondegradation better and address clean-up of present contaminated waters.

Second recommendation — add the words "and improvement" after prevention in the first sentence.

Fourth recommendation — priority of issues should be listed at beginning of document (format problem)

Seventh recommendation — concerning definition of nondegradation, also need to look at water as more than a resource.

Eighth recommendation — concern is that the wells are made illegal.

Tenth recommendation — public health data should be specified.

Twelfth recommendation — line three should read "methods for preventing" (pluralize method and add the word for). Substantiating information paragraph two for this recommendation needs language clean-up reference to line three "inherited no such dedicated staff for environmental programs."

Thirteenth recommendation — should be changed from ten-year plan to five-year plan with option of another five years. Need to be able to effectuate closure if funds are out in five years.

Fifteenth recommendation — change title of initiative to Accelerated Problem Assessment Initiative.

Sixteenth recommendation — discuss joint venture financing philosophy.

Seventeenth recommendation — discuss whether implemented means state funded and whether the department has to develop the transportation plan.

Nineteenth recommendation — need to change the compliance date to correspond with the rule, also need to discuss leak prevention.

Twenty-first recommendation -- needs language clean-up regarding drainage wells or sinkholes.

Twenty-second recommendation -- need to state why some programs are subsidized and some are not.

Twenty-third recommendation -- referred to committee -- no reason given for referral.

Twenty-fourth recommendation -- referred to committee -- no reason given for referral.

Twenty-fifth recommendation -- to be incorporated with the fifteenth recommendation.

It was decided that Page 41 (Proposed Funding) should be referred to the committee for discussion.

It was determined that the recommendations and initiatives are linked; therefore, the initiatives can be revised from revisions to the recommendations.

Chairman Schlutz appointed Commissioners Yeager, Gieselman, and Uhl to serve on the subcommittee, with Clark Yeager as chairman.

It was decided that there will be a special Commission meeting on January 6 at 8:30 a.m. to address the Ground Water Protection Strategy Plan. Toxic clean-up days will also be addressed at this meeting.

The meeting date for the next regular Commission meeting will be changed from January 19-20 to January 20-21, 1987, beginning at 10:00 a.m.

#### ADDRESS ITEMS FOR NEXT MEETING

None.

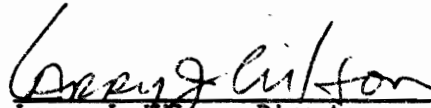
#### NEXT MEETING DATES


January 20-21, 1987  
February 16-17, 1987  
March 16-17, 1987

ADJOURNMENT

Motion was made by Richard Timmerman to adjourn. Seconded by Keith Uhl.  
Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 12:20 p.m., Tuesday, December 16, 1986.

  
Larry J. Wilson, Director

  
Charlotte Mohr, Secretary

(EPC/12-86)

ADM-1-1-1  
December

MEETING AGENDA  
ENVIRONMENTAL PROTECTION COMMISSION  
WALLACE STATE OFFICE BUILDING  
DES MOINES, IOWA

DECEMBER 15-16, 1986

Meeting Convenes at 8:30 A.M., December 15, 4th Floor Conference Room and Reconvenes on December 16, 8:30 A.M.

Break 10:00 A.M.

Public Participation 10:30 A.M., December 15.

1. Adoption of Agenda. Decision.
2. Adoption of Minutes. Decision.
3. Monthly Reports. Information. (Stokes)
4. Discussion of Pending Litigation on Chapter 135, Departmental Rules (closed session). Information. (Commission)
5. FY 88 Budget Request Approval. Decision. (Kuhn)
6. Superfund Site Update. Information. (Stokes)
7. Final Rule--Chapters 140 and 151, Hazardous Waste Siting Criteria Rules. Decision. (Stokes)
8. Notice of Intended Action--Chapters 12, 14, 16 and 18C, Wastewater Design Standards. Decision. (Stokes)
9. Referrals to Attorney General's Office. Decision. (Combs)
10. Appeal of Proposed Contested Case Decision--Walter H. Reinholdt. Decision. (Combs)
11. Appeal of Proposed Contested Case Decision--Stan Larsen. Decision. (Combs)
12. River Basin Associations Budget and Programs. Information. (Brown)
13. Hazardous Waste Storage Facility Plan. Decision. (Combs)
14. Ground Water Protection Strategy. Decision. (Combs)
15. Adoption of Rule--Chapter 135, Underground Storage Tank Regulations (L.U.S.T.). Decision. (Stokes)



16. Sulphur Dioxide Emission Limits Action Plan. Decision.  
(Stokes)
17. Address Items for Next Meeting.

NEXT MEETING DATES

January 19-20, 1987  
February 16-17, 1987  
March 16-17, 1987

MEETING AGENDA  
ENVIRONMENTAL PROTECTION COMMISSION  
WALLACE STATE OFFICE BUILDING  
DES MOINES, IOWA

DECEMBER 15-16, 1986

Meeting Convenes at 8:30 A.M., December 15, 4th Floor Conference Room and  
Reconvenes on December 16, 8:30 A.M.

Break 10:00 A.M.

Public Participation 10:30 A.M., December 15.

- PRELIMINARY ONLY**
1. Adoption of Agenda. Decision.
  2. Adoption of Minutes. Decision.
  3. Reports. Information. (Stokes)
  4. Review of 455B.111. Information. (John Sarcone) - *will prefer to do in an informal letter to the commission - Sept*
  5. Discussion of Pending Litigation on Chapter 135, Departmental Rules (closed session). Information. (Commission)
  6. FY 88 Budget Request Approval. Decision. (Kuhn)
  7. Superfund Site Update. Information. (Stokes)
  8. *Final Rule --* Hazardous Waste Citing Criteria Rules. Decision. (Stokes) *Ch. #140 + 151*
  9. *Notice of Int. Action --* Waste Water Design Standards--Chapters 12, 14, 16 and 18C. Decision. (Stokes)
  10. Referrals to Attorney General's Office. Decision. (Combs)
  11. Appeal of Proposed Contested Case Decision--Walter H. Reinholdt. Decision. (Combs)
  12. Appeal of Proposed Contested Case Decision--Stan Larsen. Decision. (Combs)
  13. River Basin Associations Budget and Programs. Information. (Brown)
  14. Hazardous Waste Storage Facility Plan. Decision. (Combs)

15. Ground Water Protection Strategy. Decision. (Combs)
16. ~~Completion of Permit~~ L.U.S.T. Rules--Chapter 135. Decision. (Stokes)
17. Sulphur Dioxide Emission Limits Action Plan. Decision. (Stokes)
18. Address Items for Next Meeting.

NEXT MEETING DATES

January 19-20, 1987  
February 16-17, 1987  
March 16-17, 1987

PRELIMINARY ONLY

REGISTRATION

DELEGATIONS FOR COMMISSION MEETING 12-15-86  
Date

NAME - ADDRESS	GROUP REPRESENTED	SUBJECT
JACK SOENER	Assoc. Bus. & IND	
ROBERT WATTEN	AMANA TRAP. INC.	
KEVIN WACHLER	KRNT	
MARJORIE DENWISOW	CEDAR RAPIDS GAZETTE	
Theresa Kehoe	Demo Sen Council <sup>Staff</sup>	
TIM ROLLINGER	Iowa Public Service	
Norm F. Mather	Summit Club	
Keith Cherryholmes	Hygienic Lab	
Craig Hotvedt	KWWL - DSM	
Cindy Hildebrand	Iowa Deafness Council	
Kim Dlouhy	WHO Radio	
Philip H. Brunk	Iowa Southern Utilities Co.	
Bob Pyle	WHO-TV	
Steve Cairns	WHO-TV	
Dan Jensen	CORN BELT POWER	
Mark Taylor	IFCA	
Wintory Eichen	IFCA	
Robin Fortney	Iowa Pavers	

DELEGATIONS FOR COMMISSION MEETING 12-16-86

Date \_\_\_\_\_

[illegible]

MINUTES  
ENVIRONMENTAL PROTECTION COMMISSION  
Wallace State Office Building  
Des Moines, Iowa  
November 12-13, 1986

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building in Des Moines, Iowa on November 12 and 13, 1986 convening at 3:00 p.m. on November 12.

MEMBERS PRESENT

Richard Timmerman, Linda Appelgate, Clark Yeager, Donna Hammitt,  
Wayne Gieselman, Charlotte Mohr, Gary Priebe, Nancy Lee Siebenmann,  
Robert Schlutz, Catherine Dunn-(November 13 only)

MEMBERS ABSENT

Keith Uhl.

PUBLIC ATTENDING

J. P. McPartland, Iowa Electric, Cedar Rapids; Dave Meyers, Department of Management, Des Moines; Robert Andersen, Iowa Wildlife Federation and Iowa Sportsmen Federation, Des Moines; Ted Yanacek, Iowa Farm Bureau, Des Moines; Robin Fortney, Iowa Power and Light, Des Moines; Marjorie Dennison, Cedar Rapids Gazette, Des Moines; Jim Gulliford, Division of Soil Conservation, Des Moines; Jack Clark, Iowa Utility Association, Des Moines; Bill Haigh, Senate Democratic Caucus Staff; Chuck Bullard, Des Moines Register, Des Moines.

ADOPTION OF AGENDA

Motion was made by Charlotte Mohr to adopt the agenda as presented. Seconded by Clark Yeager. Motion carried unanimously.

ADOPTION OF MINUTES

Approval of the minutes of October 27 was postponed until November 13 to allow the Commissioners time to review the minutes.

REVIEW OF REORGANIZATION CHANGES

James Combs, Division Administrator, Coordination and Information Division, presented organization charts of state government after the reorganization, along with a copy of the Iowa Code. Mr. Combs discussed the summary of changes throughout the Code, that occurred in DNR, due to reorganization and explained each change.

ADJOURNMENT

Chairman Schlutz adjourned the meeting at 5:15 p.m. Wednesday, November 12, 1986.

MEETING RECONVENES 8:30 A.M. NOVEMBER 13

The meeting was called to order by Chairman Robert Schlutz at 8:30 a.m. Thursday, November 13, 1986.

ADOPTION OF MINUTES

Motion was made by Nancylee Siebenmann to approve the minutes of October 27 as presented. Seconded by Clark Yeager. Motion carried unanimously. Catherine Dunn abstained explaining that she just received the minutes that morning and did not have time to read them.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

RULEMAKING STATUS REPORT

November 1, 1986

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 1 - Commission Operation	9/15/86	10/06/86			11/12/86	*11/12/86	*12/03/86	*1/07/87
2. Ch. 2 - Public Information	10/27/86	11/19/86						
3. Ch. 3 - Submission of Information	10/27/86	11/19/86						
4. Ch. 5 - Rulemaking	11/12/86	*12/03/86						
5. Ch. 6 - Regulatory Rulings	11/12/86	*12/03/86						
6. Ch. 22, 23 PSD	11/12/86	*12/03/86		12/23/86 12/30/86 1/06/87				
7. Ch. 64 - Design Standards (19)	4/22/86	5/21/86	6/10/86	6/10/86	11/12/86	*11/12/86	*12/03/86	* 1/07/87
8. Ch. 65 - Facilities	11/12/86	*12/03/86		12/23/86 12/30/86 1/03/87				
9. Ch. 69 - Private Sewage Systems	4/22/86	5/21/86	6/10/86	6/10/86	10/27/86	10/27/86	11/19/86	12/24/86
10. Ch. 135 - Underground Tank Monitoring	5/20/86	6/16/86	7/07/86	7/08/86				
11. Ch. 140, 151 Hazardous Waste Sites	7/29/86	8/27/86	9/10/86	9/18/86				
12. Ch. 8-153 HMM Transfer	11/12/86				11/12/86	*11/12/86	*12/03/86	*12/03/86

\*Projected

# MONTHLY VARIANCE REPORT

no. Facility	Program	Engineer	Subject	Decision	Date
1 Schoenjahn, Louise	Flood Plain	Virtue Engineer.	Percent Length Red.	approved	10/13/86
2 Highway 150 Bridge	Flood Plain	Iowa DOT	Freeboard	approved	10/27/86
3 Oakwood Campground	Watersupply Const.	J & A Engineers	Design Basis	approved	10/01/86
4 U.S. Gypsum Company	Watersupply Const.		Siting Criteria	approved	10/21/86
5 IBP, Inc. Columbus Jct	Watersupply Const.	IBP, Inc.	Siting Criteria	approved	10/29/86

## REPORTS OF HAZARDOUS CONDITIONS

During the period of September 5, 1986 through October 31, 1986, reports of 79 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impacts	Responsible Party	Response and Corrective Actions
10/15/86 DES MOINES	A shut-off valve on a 2,000 gallon bleach storage tank split and allowed about 290 gallons of sodium hypochlorite to leak at 701 South Roosevelt in Burlington, Iowa, on October 2, 1986. The product entered a drain to the sanitary sewer.	Henkel Corporation, P.O. Box 927, Burlington, IA 52601	A pump was connected to the valve and the contents were transferred to other storage tanks. A flange type, lined metal valve was used to replace the screwed plastic valve. The wastewater treatment plant was notified and copious amounts of water were flushed down the drain.
10/25/86 CLINTON	A mixing flow meter malfunctioned and caused an area mix tank to overflow into a containment area at 2200 Manufacturing Drive in Clinton, Iowa, on October 25, 1986. About 133 gallons of phosphoric acid and 667 gallons of propylene glycol were pumped by a sump pump into the city sewer.	Ralston Purina Company, P.O. Box 751, Clinton, Iowa 52732	Large amounts of water were flushed into the drain to dilute the spilled material. The wastewater treatment plant was notified.



Numbers in Parentheses Represent Reports For The Same Period In Fiscal Year 1986

Month	Total # of Incidents Reported	Substance Type				Mode				
		Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	79 (32)	45 (12)	0 (4)	34 (16)	55 (20)	0 (1)	18 (4)	2 (4)	0 (1)	6 (2)

Total # of  
Incidents Per  
Field Office  
This Period

1 2 3 4 5 6  
10 6 11 9 25 18

### Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Adel, City of (5)	Wastewater	Plan of Action	Order	10/1/86
Handi-Klasp, Inc. Webster City (2)	Wastewater/Air/ Solid Waste	Prohibited discharge/ open burning/open dumping	Order/Penalty	10/3/86
Northwest Iowa Area Solid Waste Agency (3)	Solid Waste	Daily Operation	Order/Penalty	10/7/86

Bell-Watcher, Inc. d/b/a Starr Inn Truck Stop (5)	Wastewater	Effluent Violations, Monitoring & Reporting	Order/Penalty	10/7/86
City of Klemme (2)	Wastewater	Effluent Violations	Order	10/10/86
Kor-Bert, Inc. Klemme (2)	Wastewater	Pretreatment	Order	10/10/86
Boatels, Inc. McGregor (1)	Wastewater	Prohibited Discharge	Order/Penalty	10/10/86
Story Construction Co., Ames (5)	Air Quality	Open Burning	Order/Penalty	10/10/86
Gary Richardson d/b/a Country Corner Cafe (4)	Wastewater	Prohibited Discharge	Order/Penalty	10/20/86
Gits Bros. Mfg. Co. Creston (4)	Wastewater	Pretreatment	Order	10/20/86
NW States Portland Cement Co., (2)	Wastewater	Prohibited Discharge	Order/Penalty	10/20/86
James Waterhouse Keota (6)	Flood Plain	Construction Without Permit	Order/Penalty	10/20/86
Mahaska Co. SW Mgmt. Commission (5)	Solid Waste	Daily Operation	Order/Penalty	10/20/86
Cedar Hills Apts. Dubuque (1)	Drinking Water	Failure to monitor- bacteria operation without permit	Order/Penalty	10/28/86
Rayburn Mobile Homes, Inc., Mason City (2)	Drinking Water	Failure to monitor- bacteria operation without permit	Order/Penalty	10/28/86
Woolstock, City of (2)	Wastewater	Monitoring: effluent violations	Order/Penalty	10/28/86
Stratford Grain and Supply Coop, Inc. Stratford (2)	Hazardous Con- dition	Failure to notify	Order/Penalty	10/28/86
Morris Inn Steak House, Morrison (2)	Drinking Water	Failure to monitor- bacteria	Order/Penalty	10/28/ 86
K&K Truck Stop Lenox (4)	Drinking Water	Failure to monitor- bacteria	Order/Penalty	10/28/86

North Central Fertilizer, Sheffield (2)	Hazardous Condition	Groundwater pollution	Cleanup Order	10/30/86
Fairyland Park Long Grove (6)	Drinking Water	Failure to monitor-bacteria, nitrate	Order/Penalty	10/30/86
Tri-City Golf Club Postville (1)	Drinking Water	Failure to monitor-bacteria, nitrate	Order/Penalty	10/30/86
Indian Creek Country Club, Nevada (5)	Drinking Water	Failure to monitor-bacteria	Order/Penalty	10/30/86
Rice Lake Water, Inc. Lake Mills (2)	Drinking Water	Failure to monitor-bacteria	Order/Penalty	10/30/86
Des Moines YMCA Camp Des Moines (5)	Drinking Water	Failure to monitor-bacteria	Order/Penalty	10/30/86

The following administrative penalties are due:

<u>NAME</u>	<u>AMOUNT</u>	<u>DUE DATE</u>
*Otter Creek Station	\$ 189	5-09-86
*New Shack Tavern	\$ 230	5-13-86
*Orchard MHP	\$ 62	7-29-86
4-Way Tap	\$ 62	8-01-86
*Kit Kat Club	\$ 62	8-02-86
Broken Arrow Lounge	\$ 186	10-04-86
Kopper Kettle, Inc.	\$ 236	10-05-86
William Jetter	\$1,000	10-06-86
Ag Products Terminal	\$1,000	12-05-86
Shelter Shield	\$1,000	12-03-86
Lawrence Payne	\$ 700	12-05-86
NW Iowa Area SLF	\$ 600	12-08-86
Bell-Watcher, Inc.	\$1,000	12-08-86
Boatels, Inc.	\$1,000	12-14-86
Story Construction Co.	\$1,000	12-14-86
Country Corner Cafe	\$ 400	12-21-86
NW States Cement	\$1,000	12-21-86
Mahaska County SLF	\$ 600	12-21-86
Cedar Hills Apartments	\$1,000	----
Rayburn Mobile Home Court	\$ 212	----
Woolstock, City of	\$ 210	----
Stratford Grain and Supply	\$1,000	----
Morris Inn Steak House	\$ 212	----
K & K Truckstop	\$ 212	----
Des Moines YMCA	\$ 162	----
Rice Lake Water	\$ 212	----
Indian Creek Country Club	\$ 162	----
Tri-City Golf Club	\$ 277	----
Fairyland Park	\$ 277	----

The following administrative penalties have been appealed:

<u>NAME</u>	<u>AMOUNT</u>
Iowa Power and Light	\$1,000
Karen's Cafe	\$ 224
Finlan Landfill	\$1,000
Besch/Ralston	\$ 500
Woodland Pork	\$1,000
IBP/Langenfeld	\$1,000
Iowa Public Service	\$1,000
Kula and Boge	\$1,000
McConnell; Yoder Fees	\$1,000
Handi-Klasp, Inc.	\$1,000

The following administrative penalties were paid in October:

<u>NAME</u>	<u>AMOUNT</u>
Riviera, Ltd.	\$ 62
Southeast Multi-Co. SLF	\$ 600
Fareway Stores	\$ 100
Manatt's, Inc.	\$ 700
Floyd-Mitchell SLF	\$ 200

Department of Natural Resources  
Environmental Protection Commission  
Attorney General Referrals  
November 1, 1986

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Aldex Corporation Council Bluffs (4)		Hazardous Waste	Release of Hazardous Substances	Referred to Attorney General	Referred	12/16/82
Boyer Valley Company Danison (4)	New	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	10/27/86
Bryant, Robert E. Cherokee (3)		Wastewater	Prohibited Discharge	Order	Referred Suit Filed	6/01/86 9/08/86
Elfers, Wayne Harrison (1)		Flood Plain	Unauthorized Fill	Referred to Attorney General	Referred Suit Filed	6/19/84 11/01/85
Finlan Landfill Chickasaw County (1)	New	Solid Waste	Operation Violations	Order	Referred	10/27/86
Hardin County Solid Waste Comm. Elfers (2)		Solid Waste	Operation Violations	Order	Referred Suit Filed Pretrial Conference	12/27/84 3/18/85 10/20/86
Hill Top Feed Yards, Inc. Pottawattamie County (4)		Wastewater	Foodlot Lagoon Discharge	Order	Referred Suit Filed	9/16/85 1/23/86

Low Valley Mobile Estates		Water Supply	Monitoring Operation Without Permit	Order	Referred Suit Filed	11/27/84
Jungling Farms, Inc. Butler County (2)		Wastewater	Prohibited Discharge	Order	Referred	7/31/86
Kit-Kat Club Evansdale (1)	New	Drinking Water	Failure To Pay Penalty	Penalty Order	Referred	10/27/86
Keechuk/Ogilvie Mills (6)		Wastewater	Discharge Violations	Order/Referral	Referred	7/31/86
New Shack Tavern Cedar Rapids (1)		Water Supply	Penalty/Monitoring	Order	Referred	7/31/86
Orchard Mobile Home Court Cedar Rapids (1)	New	Drinking Water	Failure To Pay Penalty	Penalty	Referred	10/27/86
Other Creek Station Zwingle (1)		Water Supply	Penalty/Monitoring	Order	Referred Suit Filed	7/31/86 9/11/86
Parker, A.J. Diagonal (4)		Solid Waste	Operation Violations at Permitted Site	Order	Referred Injunction Issued Compliance Date	3/21/79 2/26/80 3/21/81
Poster Derby Oil Company Davenport (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Petition Filed Judgment Assessed Cleanup Plan Approved	3/83 10/12/84 10/24/84 1/27/86
Sellsbury, Ronald, Presto-X Des Moines (5)		Hazardous Waste	Treatment and Storage Violations	Referred to Attorney General	Referred Judgment Appealed to Sup. Ct. Briefs Filed	9/18/84 3/86 7/86 10/86
Schmidt vs. IDMAH Ft. Dodge (2)		Hazardous Waste	None - Judicial Review	Declaratory Ruling	Suit Filed Briefs Filed Hearing Held	10/07/85 1/15/86 10/86
Wisconsin Barge Service Clinton (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Suit filed	11/20/85 7/86
Wittstock, Arlo Union County (4)		Flood Plain	None - Judicial Review	Permit issued	Petition for Judicial Review Remanded to Agency	6/24/86 10/27/86
Wolleson, Robert C. Buena Vista and Cherokee Counties (3)	Updated	Wastewater	Prohibited Discharge	Order	Referred Hearing Consent Decree Contempt Finding Contempt Finding	11/27/84 4/22/85 4/25/85 7/02/85 9/23/86
Woodland Park Jones County (1)		Wastewater	Prohibited Discharge	Order	Referred	7/31/86
Woodside Mobile Home Estates Mount Pleasant (6)		Drinking Water	Failure to Monitor	Order	Referred Suit Filed	3/31/85 1/24/86
Yocum, Max Johnson (6)		Flood Plain	Prohibited Construction	Defending	Suit Filed Motion to Dismiss Denied	12/18/84 3/06/85 8/07/85
				Referred to Attorney General	Referred Counter Claim Filed	7/12/85 10/85

Department of Natural Resources  
Environmental Protection Commission  
Contested Cases  
November 1, 1986

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10-26-83 1-20-85	Frit Industries	Administrative Order Hazardous Waste Registry	HW	Lande	Settlement close.
9-14-84	Belmond, et. al.	Administrative Order	HC	Lande	Proposed decision 11-4-85; appealed.
10-17-85	City of Bevington	Administrative Order	WE	Hansen	Hearing continued.
10-23-85	Farmers Coop. Elevator Company	Permit Condition	WW	Hansen	Hearing continued.
1-23-86	Oswein Soil Service	Administrative Order	WW	Lande	Hearing continued pending evaluation of test results.
2-12-86	Woodland Park	Administrative Order	WW	Murphy	Proposed decision 3-29-86; on 11/86 agenda.
3-12-86	Charles City	Variance Denial	Air	Lande	Motion to dismiss appeal filed.
3-20-86	Stan Larsen	Variance Denial	FP	Clark	Proposed decision 6-27-86; appealed.
4-17-86	Korea's Cafe	Administrative Order	WS	Murphy	Hearing continued; settlement proposed.
5-07-86	Iowa Power and Light	Administrative Order	Air	Lande	Hearing continued.
5-21-86	Boech and Reistow	Administrative Order	SW	Lande	Settlement close.
6-10-86	City of Wapora	Water Supply Permit	WS	Newcom	Hearing continued.
6-11-86	Reinholdt, Walter	Water Use Permit	WR	Clark	Proposed decision 9-24-86; appealed.
6-12-86	ADM - Clinton	Administrative Order	Air	Lande	Hearing continued. Consent Order proposed.
7-30-86	ISP - Columbus Junction	NPDES Permit	WW	Hansen	Hearing set for 12-03-86.
8-10-86	Langenfeld/ISP, Inc.	Administrative Order	SW	Kennedy	Hearing set for 11/11/86.
9-10-86	Farmers Mutual Coop	Administrative Order	WE/SW	Lande	New case
9-10-86	Kala and Sage	Administrative Order	SW	Lande	New case
9-15-86	Iowa Public Service	Administrative Order	Air	Lande	Hearing continued.
10/02/86	Long Branch Hous. Corp.	Administrative Order	WS	Murphy	Hearing set for 12/10/86.
10/08/86	City of Howell	NPDES Permit	WW	Hansen	New Case
10/22/86	Vader Foods, Inc. et.al	Administrative Order	WW/SW	Kennedy	New Case
10/27/86	Newest Ayr, City of	Administrative Order	WW	Hansen	New Case
10/28/86	Lamoni Municipal Utilities	Administrative Order	WW	Hansen	New Case

NOTICE OF INTENDED ACTION -- 567 CHAPTERS 22 AND 23

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Department requests approval to file the attached Notice of Intended Action to initiate rulemaking to adopt by reference the EPA Prevention of Significant Deterioration (PSD) regulations which pertain to permitting major sources or major modifications to existing sources located in attainment areas.

After the rules have been adopted, the Department will enter into a delegation agreement with EPA in order to implement the PSD program in Iowa in the interim until the rules can be submitted and approved by EPA as a State Implementation Plan (SIP) revision.

**ENVIRONMENTAL PROTECTION COMMISSION (567)  
NOTICE OF INTENDED ACTION**

Pursuant to the authority of Iowa Code section 455B.133(2), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution" of the Iowa Administrative Code (IAC) as it pertains to the permit requirements for new stationary sources of air pollution. These amendments also propose related changes in Chapter 23, "Emission Standards for Contaminants."

Iowa Code section 455B.133(1) authorizes the Commission to develop comprehensive plans and programs for the abatement, control and prevention of air pollution in Iowa. Among other measures specified in 455B.133(1) to be included in the plans and programs are measures to prevent the significant deterioration of air quality. By this action, the Commission proposes to adopt a program for the review and permitting of major sources which intend to locate in areas which have been designated as "attainment" or which are unclassified. This Prevention of Significant Deterioration (PSD) program is required to be developed, implemented and enforced by Part C of the Clean Air Act, and is currently being conducted in Iowa by the Environmental Protection Agency.

The proposed amendments, in detail, are as follows:

Item 1 pertains to amendment of subrule 22.1(2) providing for exemptions to the general requirement to obtain a permit prior to constructing, installing, reconstructing or altering equipment or control equipment. The amendment provides that the exemption applies only if a permit is not required as a special requirement. In this instance, if a PSD permit is required no exemptions apply.

Item 2 adopts by reference the federal rules pertaining to the federal PSD air permit program, 40 C.F.R. subsection 52.21 as amended through August 7, 1980. Specific subsections include definitions (subsection 52.21(c)), exclusions from increment consumption (subsection 52.21(f)), stack heights (subsection 52.21(h)), and air quality analysis (subsection 52.21(m)). The entire rule, subsection 52.21(a)-(w), is available from the department.

Item 3 amends subrule 567--23.1(1) to include, as federal emission standards applicable to sources in Iowa, the federal PSD standards adopted by reference by the department.

Any person may file with the director written comments on the proposed rules by January 10, 1987. Interested persons may also provide oral comments at public hearings to be held at 1:00 p.m. on December 23, 1986 in the 5th Floor Conference Room of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319, at 11:00 a.m. on December 30, 1986 in the Room 109 conference room, Geological Survey Bureau, Department of Natural Resources, 123 N. Capitol Street, Iowa City, Iowa; and on January 6, 1987 at 11:00 a.m. in the Community Hall Room of the Council Bluffs Parks and Recreation Office, 205 South Main Street, Council Bluffs, Iowa.

These rules are intended to implement Iowa Code section 455B.133.

The following amendments are proposed:

**ITEM 1.** Amend the first unnumbered paragraph of subrule 567--22.1(2) to read as follows:

22.1(2) Exemptions. The provisions of this rule shall not apply to the following listed equipment or control equipment unless review of such equipment or control equipment is necessary to comply with rule 22.4 or 22.5(455B), in which case a permit must be obtained.

**ITEM 2.** Amend 567, chapter 22, by adding rule 22.4 which reads as follows:

567--22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). Except as provided in subrule 22.4(1), the following federal regulations pertaining to the prevention of significant deterioration are adopted by reference, 40 C.F.R. subsection 52.21 as amended through August 7, 1980.

22.4(1) Federal rules 40 C.F.R. 52.21(a) (Plan Approval), 52.21(q) (Public Participation), 52.21(s) (Environmental Impact Statement), and 52.21(u) (Delegation of Authority), are not adopted by reference. Also, for the purposes of 40 C.F.R. 52.21(1), the department adopts the 1986 edition of EPA's document "Guideline on Air Quality Models."

22.4(2) The term "administrator" shall mean the director of the Department of Natural Resources except that:

a. In subparagraph 52.21(b)(3)(iii) relating to "net emissions increase," it shall mean both the director of the Department of Natural Resources and the administrator of the Environmental Protection Agency (EPA).

b. It shall mean the administrator of EPA in 52.21(b)(17), 52.21(f)(1)(v), 52.21(f)(3), 52.21(f)(4)(1), 52.21(g)(1)-(g)(6), 52.21(1)(2), 52.21(p)(1) and (p)(2), and 52.21(t).

22.4(3) The procedural requirements of 40 C.F.R. 51.24(q) (except the phrase "The plan shall provide that --") are hereby adopted by reference. For the purposes of this subrule the phrase "specified time period" shall mean thirty (30) days. The term "administrator" as it appears in subparagraph 51.24(q)(2)(iv) shall mean the administrator of EPA.

**ITEM 3.** Subrule 567--23.1(1) is amended to read as follows:

23.1(1) In general. The federal standards of performance for new stationary sources (new source performance standards) shall be applicable as specified in 23.1(2). The federal standards for hazardous air pollutants (national emission standards for hazardous air pollutants) shall be applicable as specified in 23.1(3). The federal standards for best available control technology (BACT) shall be applicable as specified in 22.4(1). Compliance



with emission standards specified in this chapter shall be in accordance with chapter 21 of these rules.

---

Larry J. Wilson, Director

Motion was made by Richard Timmerman to approve Notice of Intended Action--567 Chapters 22 and 23, Adoption by reference of EPA Prevention of Significant Deterioration Regulations. Seconded by Catherine Dunn. Motion carried unanimously.

#### CHAPTER 19 -- SUPPLEMENTAL TREATMENT PROCESSES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Attached is a copy of a new chapter of the Iowa Wastewater Facilities Design Standards -- Chapter 19, Supplemental Treatment Processes, and a copy of a Public Participation Responsiveness Summary pertaining to this chapter.

The proposed standard reflects the input from engineers and research of available literature. In addition, it was sent for public comment to various interested and affected groups, including City Engineers, Wastewater Superintendents, CEC Subcommittee 310A, University Professors, League of Iowa Municipalities, DNR Field Offices and EPA Region 7.

The standard includes phosphorous removal by chemical treatment and high rate effluent filtration. Designers may submit proposals for other supplemental treatment processes which are not discussed in detail, and it is indicated that results are not available on performance evaluations of redesigned microscreening units.

On April 21, 1986, the Commission approved a Notice of Intended Action to hold a public hearing and receive comments on the proposed chapter. The public hearing was held on June 10, 1986, and the written comment period closed on June 20, 1986. The comments and responses are included in the Public Participation Responsiveness Summary.

#### IOWA WASTEWATER FACILITIES DESIGN STANDARDS CHAPTER 19 SUPPLEMENTAL TREATMENT PROCESSES

##### 19.1 GENERAL

- 19.1.1 Applicability
- 19.1.2 Variances
- 19.1.3 Explanation of Terms

##### 19.2 PHOSPHORUS REMOVAL BY CHEMICAL TREATMENT

- 19.2.1 General

- 19.2.1.1 Method
- 19.2.1.2 Design Basis

- 19.2.1.2.1 Preliminary Testing
- 19.2.1.2.2 System Flexibility

#### 19.2.2 Process Requirements

- 19.2.2.1 Dosage
- 19.2.2.2 Chemical Selection
- 19.2.2.3 Chemical Feed Points
- 19.2.2.4 Flash Mixing
- 19.2.2.5 Flocculation
- 19.2.2.6 Liquid - Solids Separation
- 19.2.2.7 Filtration

#### 19.2.3 Feed Systems

- 19.2.3.1 Location
- 19.2.3.2 Liquid Chemical Feed System
- 19.2.3.3 Dry Chemical Feed System

#### 19.2.4 Storage Facilities

- 19.2.4.1 Size
- 19.2.4.2 Location
- 19.2.4.3 Accessories

#### 19.2.5 Requirements

- 19.2.5.1 Materials
- 19.2.5.2 Temperature, Humidity and Dust Control
- 19.2.5.3 Cleaning
- 19.2.5.4 Drains and Drawoff

#### 19.2.6 Sludge Handling

- 19.2.6.1 General
- 19.2.6.2 Dewatering

### 19.3 HIGH RATE EFFLUENT FILTRATION

#### 19.3.1 General

- 19.3.1.1 Applicability
- 19.3.1.2 Design Considerations
- 19.3.1.3 Filter Types

#### 19.3.3 Filtration Rates

- 19.3.3.1 Allowable Rates
- 19.3.3.2 Number of Units

19.3.4 Backwash

19.3.4.1 Backwash Rate

19.3.4.2 Backwash

19.3.5 Filter Media

19.3.6 Filter Appurtenances

19.3.7 Access and Housing

19.3.8 Backwash Surge Control

19.3.9 Backwash Water Storage

19.3.10 Proprietary Equipment

19.4 OTHER SUPPLEMENTAL TREATMENT PROCESSES

IOWA WASTEWATER FACILITIES DESIGN STANDARDS  
CHAPTER 19  
SUPPLEMENTAL TREATMENT PROCESSES

19.1 GENERAL

19.1.1 Applicability. This chapter is applicable to construction, installation or modification of any disposal system required to obtain a construction permit from this Department under the Iowa Code Section 455B.45, and 900--64.2 of the Iowa Administrative Code (IAC).

19.1.2 Variances (900--64.2(9)"c", "d" and "e", IAC)

c. Variances from the design standards and siting criteria which provide, in the judgment of the department, for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The executive director may issue variances when circumstances are appropriate. The denial of a variance may be appealed to the commission.

d. When reviewing the variance request, the executive director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

e. Circumstances that would warrant consideration of a variance (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and accepted technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a variance is granted.

19.1.3 Explanation of terms. The terms "shall" or "must" are used in these standards when it is required that the standard be used. Other terms such as "should" and "recommended" indicate desirable procedures or methods which should be considered but will not be required.

19.2 PHOSPHORUS REMOVAL BY CHEMICAL TREATMENT

19.2.1 General.

19.2.1.1 Method. Addition of lime or the salts of aluminum or iron may be used for the chemical removal of soluble phosphorus. The phosphorus reacts with the calcium, aluminum or iron ions to form insoluble compounds. These

insoluble compounds may be flocculated with or without the addition of a coagulant aid such as a polyelectrolyte to facilitate separation by sedimentation.

19.2.1.2 Design Basis.

19.2.1.2.1 Preliminary Testing. Laboratory, pilot or full scale trial of various chemical feed systems and treatment processes are recommended to determine the achievable performance level, cost-effective design criteria, and ranges of required chemical dosages.

19.2.1.2.2 System Flexibility. Systems shall be designed with sufficient flexibility to allow for several operational adjustments in chemical feed location, chemical feed rates, and for feeding alternate chemical compounds.

19.2.2 Process Requirements.

19.2.2.1 Dosage. The required chemical dosage shall include the amount needed to drive the chemical reaction to the desired state of completion plus the amount required due to inefficiencies in mixing or dispersion. Excessive chemical dosage should be avoided.

19.2.2.2 Chemical Selection. The choice of lime or the salts of aluminum or iron should be based on the wastewater characteristics and the economics of the total system. When lime is used, it may be necessary to neutralize the high pH prior to subsequent treatment in secondary biological systems or prior to discharge in those flow schemes where lime treatment is the final step in the treatment process.

19.2.2.3 Chemical Feed Points. Selection of chemical feed points shall include consideration of the chemicals used in the process, necessary reaction times between chemical and polyelectrolyte additions, and the wastewater treatment processes and components utilized.

19.2.2.4 Flash Mixing. Each chemical must be mixed rapidly and uniformly with the flow stream. Separate mixing basins equipped with mechanical mixing devices should be provided with a detention period of at least 30 seconds.

19.2.2.5 Flocculation. The particle size of the precipitate formed by chemical treatment may be very small. Consideration should be given in the process design to the addition of synthetic polyelectrolytes to aid settling. The flocculation equipment should be adjustable in order to obtain optimum floc growth, control deposition of solids, and prevent floc destruction.

19.2.2.6 Liquid-Solids Separation. The velocity through pipes or conduits from flocculation basins to settling basins should not exceed 1.5 feet per second in order to minimize floc destruction. Entrance works to settling basins should also be designed to minimize floc shear. Settling basin design shall be in accordance with criteria outlined in Chapter 16. For design of the sludge handling system, special consideration should be given to the type and volume of sludge generated in the phosphorus removal process.

19.2.2.7 Filtration. Effluent filtration shall be considered where effluent total phosphorus concentrations of less than 1 mg/l must be achieved.

19.2.3 Feed Systems.

19.2.3.1 Location. All liquid chemical mixing and feed installations shall be installed on corrosion resistant pedestals elevated above the floor level for ease of cleaning. Lime feed equipment shall be located so as to minimize the length of slurry conduits. All slurry conduits shall be accessible for cleaning.

19.2.3.2 Liquid Chemical Feed System. Liquid chemical feed pumps shall be of the positive displacement type with variable feed rate. Pumps shall be selected to feed the full range of chemical quantities required for the

phosphorus mass loading conditions anticipated with the largest unit out of service. Screens and valves shall be provided on the chemical feed pump suction lines. An air break or anti-siphon device shall be provided where the chemical solution stream discharges to the transport water stream to prevent an induction effect resulting in overfeed. Consideration shall be given to providing pacing equipment to optimize chemical feed rates.

19.2.3.3 Dry Chemical Feed System. Each dry chemical feeder shall be equipped with a dissolver which is capable of providing a minimum 5-minute retention at the maximum feed rate. Polyelectrolyte feed installations shall be equipped with two solution vessels and transfer piping for solution make-up and daily operation. Make-up tanks shall be provided with an eductor funnel or other appropriate arrangement for wetting the polymer during the preparation of the stock feed solution. Adequate mixing shall be provided by a large-diameter low-speed mixer.

#### 19.2.4 Storage Facilities.

19.2.4.1 Size. Storage facilities shall be sufficient to insure that an adequate supply of the chemical is available at all times. Exact size required will depend on size of shipment, length of delivery time, and process requirements. Storage for a minimum of 10-days supply shall be provided.

19.2.4.2 Location. The liquid chemical storage tanks and tank fill connections shall be located within a containment structure having a capacity exceeding the total volume of all storage vessels. Valves on discharge lines shall be located adjacent to the storage tank and within the containment structure. Containment areas shall be sloped to a sump area and shall not contain floor drains. Bag storage shall be located near the solution makeup point to avoid unnecessary transportation and house-keeping problems.

19.2.4.3 Accessories. Platforms, ladders, and railings shall be provided as necessary to afford convenient and safe access to all filling connections, storage tank entries, and measuring devices. Storage tanks shall have reasonable access provided to facilitate cleaning.

#### 19.2.5 Other Requirements

19.2.5.1 Materials. All chemical feed equipment and storage facilities shall be constructed of materials resistant to chemical attack by all chemicals normally used for phosphorus treatment.

19.2.5.2 Temperature, Humidity and Dust Control. Precautions shall be taken to prevent chemical storage tanks and feed lines from reaching temperatures likely to result in freezing or chemical crystallization at the concentrations employed. A heated enclosure or insulation may be required. Provisions shall be made for temperature, humidity and dust control in all chemical feed room areas.

19.2.5.3 Cleaning. Consideration shall be given to the accessibility of piping. Piping shall be installed with plugged wyes, tees or crosses in direction to facilitate cleaning.

19.2.5.4 Drains and Drawoff. Above-bottom drawoff from chemical storage or feed tanks shall be provided to avoid withdrawal of settled solids into the feed system. A bottom drain shall also be installed for periodic removal of accumulated settled solids.

#### 19.2.6 Sludge Handling.

19.2.6.1 General. Provisions shall be made for the type and additional capacity of the sludge handling facilities needed when chemicals are added.

19.2.6.2 Dewatering. Design of dewatering systems shall be based, where possible, on an analysis of the characteristics of the sludge to be handled. Consideration shall be given to the ease of operation, effect of recycle

streams generated, production rate, moisture content, dewatering, final disposal, and operating cost.

### 19.3 HIGH RATE EFFLUENT FILTRATION.

19.3.1 Applicability. Granular media filters may be used as a tertiary treatment device for the removal of residual suspended solids from secondary effluents. Where effluent suspended solids requirements are less than 10 mg/l, where secondary effluent quality can be expected to fluctuate significantly, or where filters follow a treatment process where significant amounts of algae will be present, a pre-treatment process such as chemical coagulation and sedimentation or other acceptable process should precede the filter units.

19.3.1.2 Design Considerations. Care should be given in the selection of pumping equipment ahead of filter units to minimize shearing of floc particles. Consideration should be given in the plant design to providing flow-equalization facilities to moderate filter influent quality and quantity.

19.3.1.3 Filter Types. Filters may be of the gravity type or pressure type. Pressure filters shall be provided with ready and convenient access to the media for treatment or cleaning. Where greases or similar solids which result in filter plugging are expected, filters should be of the gravity type.

#### 19.3.3 Filtration Rates.

19.3.3.1 Allowable Rates. Filtration rates shall not exceed 5 gpm/sq. ft. based on the maximum hydraulic flow rate applied to the filter units.

19.3.3.2 Number of Units. Total filter area shall be provided in 2 or more units, and the filtration rate shall be calculated on the total available filter area with one unit out of service.

#### 19.3.4 Backwash

19.3.4.1 Backwash Rate. The backwash rate and procedure shall be appropriate for the filter media used, with fluidization capability or other means provided for dual or triple media filters to permit restratification of the layers in their desired positions at the end of the backwash. The backwash system shall be capable of providing a variable backwash rate having a maximum of at least 20 gpm/sq. ft. and a minimum backwash period of 10 minutes.

19.3.4.2 Backwash. Pumps for backwashing filter units shall be sized and interconnected to provide the required rate to any filter with the largest pump out of service. Filtered water shall be used as the source of backwash water. Waste filter backwash shall be returned to the plant influent for further treatment.

19.3.5 Filter Media. Selection of proper media size and type will depend on the filtration rate selected, the type of treatment provided prior to filtration, filter configuration, and effluent quality objectives. In dual or multi-media filters, media size selection must consider compatibility among media. The media size and depth shall be selected to provide an effluent meeting the specific conditions and treatment requirements relative to the project under consideration. Furthermore, the head loss provided shall be appropriate for the media to ensure that the backwash volume required does not exceed 10 percent of the plant production when the plant is at design capacity.

19.3.6 Filter Appurtenances. The filters shall be equipped with washwater troughs, overflow troughs or a central gullet, surface wash or air scouring equipment, means of measurement and positive control of the backwash rate, equipment for measuring filter head loss, positive means of shutting off flow to a filter being backwashed, and filter influent and effluent sampling

points. If automatic controls are provided, there shall be a manual override for operating equipment, including each individual valve essential to the filter operation. The underdrain system shall be designed for uniform distribution of backwash water (and air, if provided) without danger of clogging from solids in the backwash water. Provision shall be made to allow periodic chlorination of the filter influent or backwash water to control slime growths.

19.3.7 Access and Housing. Each filter unit shall be designed and installed so that there is ready and convenient access to all components and the media surface for inspection and maintenance without taking other units out of service. Housing shall be provided for all filter units and all controls shall be enclosed. The structure housing filter controls and equipment shall be provided with adequate heating and ventilation equipment to minimize problems with excess humidity.

19.3.8 Backwash Surge Control. The rate of return of waste filter backwash water to treatment units shall be controlled such that the rate does not exceed 15 percent of the design average daily flow rate to the treatment units. The hydraulic and organic load from waste backwash water shall be considered in the overall design of the treatment plant. Where waste backwash water is returned for treatment by pumping, adequate pumping capacity shall be provided with the largest unit out of service.

19.3.9 Backwash Water Storage. Total backwash water storage capacity provided in an effluent clearwell or other unit shall equal or exceed the volume required for two complete backwash cycles although additional capacity shall be considered to allow for operational flexibility.

19.3.10 Proprietary Equipment. Where proprietary filtration equipment, such as shallow bed, traveling bridge, continuous backwash type filters, is proposed, data which supports the capability of the equipment to meet effluent requirements under design conditions shall be provided to the department for review on a case-by-case basis.

19.4 OTHER SUPPLEMENTAL TREATMENT PROCESSES. Other supplemental treatment processes, such as dissolved oxygen adjustment, pH adjustment, carbon absorption, denitrification processes, biological phosphorus removal systems and other advanced treatment processes are available but have not been discussed in detail in this standard. This does not preclude design engineers from submitting proposals for the application of such technologies where they may seem to offer appropriate solutions to wastewater treatment problems. After experience is gained with the use of such systems, consideration may be given to incorporating more detailed information in future revisions to these standards. Microscreening has not been included in this standard because of many design, construction and operational problems which were reported on as a result of a preliminary assessment of several problem projects by the Environmental Protection Agency. The projects pertained to microscreening of pond effluents, but some of the problems could be expected on other type installations. Screen units have been redesigned and performance evaluations are being conducted but the results for the redesigned units are not yet available.

Motion was made by Catherine Dunn to approve Final Rule--Chapter 19, Iowa Wastewater Facilities Design Standards--Supplemental Treatment Process. Seconded by Nancylee Siebenmann. Motion carried unanimously.



REVISION OF CHAPTER 65 ANIMAL FEEDING OPERATIONS RULES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

During September, a comprehensive package of proposed revisions to Chapter 65 rules was developed and sent to the Iowa Cattlemen's Association, the Iowa Pork Producers Association, and the Iowa Farm Bureau. The proposed revisions were also discussed with representatives of these groups on October 3, and each group was asked to provide written comments to the Department.

Comments on the proposed rule revisions were received from the Iowa Cattlemen's Association and the Iowa Pork Producers Association. The comments were generally supportive of the proposed revisions, although both groups suggested that the Department attempt to provide greater flexibility to livestock producers with regard to disposing of wastes collected in open feedlot runoff control systems.

Based on the comments received, minor changes were made to the proposed rule revisions, and the attached Notice of Intended Action to amend the Chapter 65 rules was prepared. The Department requests approval to file this Notice of Intended Action and thus to start the rulemaking process. The tentative schedule for adoption of these rule revisions is:

November 14 -- File Notice  
January 15 -- Comment Period Expires  
February 16 -- Adopt Final Rules  
April 15 -- Rules Effective

As stated in the Notice, we are recommending that three public hearings be held, as follows:

December 23 -- Des Moines  
December 30 -- Iowa City  
January 5 -- Storm Lake

The proposed revisions to these rules are outlined in the Notice of Intended Action. It should also be noted that the department is working to develop an additional waste control alternative for open feedlots (to increase the flexibility producers have in waste disposal), and that comments on the need for such disposal option are being solicited. By requesting comments at this time, the department will be able to incorporate such an option into these rules prior to their adoption, even though the details of this alternative have not currently been developed.

ENVIRONMENTAL PROTECTION COMMISSION (567)  
NOTICE OF INTENDED ACTION

Pursuant to the authority of 1986 Iowa Acts, S.F. 2175, sec. 1806, and Iowa code sections 455B.105 and 455B.173, the Environmental Protection Commission of the Iowa Department of Natural Resources hereby gives Notice of Intended Action to amend chapter 65 - "Animal Feeding Operations." The purpose of these proposed amendments is to implement recommendations of a Governor's task force and legislative committees regarding the department's regulation of



animal feeding operations. In general, the changes simplify the rules, make them more consistent with federal regulations and provide more flexibility to feedlot operators.

Item 1 deletes, modifies or adds definitions of terms that apply in these rules, in the interest of simplification and clarification, and to provide more information.

Item 2 revises the minimum waste control requirements which apply to all animal feeding operations, again primarily to simplify or clarify the rules. Subrule 65.2(2) adds a cross-reference to a new Appendix A (Item 10), which is intended to provide operators with control and disposal options that will enable them to comply. Subrule 65.2(3) adds operational conditions for confinement feeding operations. These conditions were placed in operation permits under existing rules. Since these proposed amendments will delete the requirement to obtain an operation permit for most confinement operations, the standard operating conditions are now being placed in the rules. A new subrule 65.2(8) is added to require that wastes be removed from discontinued operations within a reasonable time. This requirement is added to clarify the department's authority and put operators on clear notice of their obligations.

Item 3 rewrites the department's rules as to what operations are required to have an operation permit, to be equivalent to the federal rules. The subrule commonly referred to as the "two-foot" rule and the subrule requiring many confinement units to obtain operation permits will be removed.

Item 4 revises the current rule on departmental, case-by-case evaluation of operations to determine whether an operation permit should be required. The revisions are to make the wording clearer and to conform the rules to federal regulations.

Item 5 makes minor revisions in the department's rules regarding operation permit application and issuance procedures.

Item 6 makes similar minor revisions to the department's construction permit requirements. Some confinement units which will no longer be required to obtain operation permits will still need to obtain a construction permit. Those operations which will need a construction permit are open feedlots that need an operation permit under the rules, or confinement units that (1) utilize an anaerobic lagoon, (2) utilize an earthen storage basin and exceed specified (moderately-sized) animal capacities, or (3) exceed specified (very large) animal capacities.

Item 7 makes minor clarifications in the rule relating to transfer of operations.

Item 8 simply changes a rule number.

Item 9 adopts a new interpretive rule regarding the applicability of these rule revisions vis-a-vis Iowa code chapter 172D.

Item 10 adopts a new Appendix A to the rules, which provides four options to open feedlot operators required to have an NPDES permit, regarding the design and operation of waste control facilities to enable compliance with the department's rules. The department also solicits comments on whether a fifth control and disposal option, calling for waste disposal in the April-May and October-November time periods should be added.

Item 11 makes minor modifications to the department's land disposal guidelines, in the interest of clarity.

It should be noted that current rules of the department, particularly those modified by Items 3, 4 and 11, carry objections by the Administrative Rules Review Committee. It is the intent of these proposed rule revisions that the grounds for those objections are removed.

Any interested person may make written suggestions or comments on these proposed rules on or before January 16, 1987. Such written materials should be directed to the Chief, Surface and Ground Water Protection Bureau, Environmental Protection Division, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Interested persons may also provide oral comments at public hearings to be held on December 23, 1986 at 10:00 a.m. in the 5th floor conference room of the Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa; December 30, 1986 at 1:00 p.m. in Room 109 conference room, Geological Service Bureau, Department of Natural Resources, 123 N. Capitol Street, Iowa City, Iowa; and on January 5, 1987 at 1:00 p.m. at the Farm Credit Building, 1705 North Lake Avenue, Storm Lake, Iowa.

These rules are intended to implement Iowa code chapter 455B, Division III, Part I, and Iowa code section 455B.134(3)(e).

Item 1. Amend 567--65.1(455B) by striking the subrule numbers, placing the definitions in alphabetical order, striking the definitions of "animal enclosure," "application for construction permit," and "application for operation permit," and amending or adding definitions as follows:

"Anaerobic lagoon" means an impoundment, the primary function of which is to store and stabilize organic wastes. The impoundment is designed to receive wastes on a regular basis and the design waste loading rates are such that the predominant biological activity in the impoundment will be anaerobic. An anaerobic lagoon does not include:

a. A runoff control basin which collects and stores only precipitation induced runoff from an open feedlot feeding operation; or

b. A waste slurry storage basin which receives waste discharges from confinement feeding operations and which is designed for complete removal of accumulated wastes from the basin at least semi-annually; or

c. Any anaerobic treatment system which includes collection and treatment facilities for all off gases.

"Animal capacity" means the maximum number of animals which the owner or operator will be confined, as determined by the applicant, in the an animal feeding operation at any one time.

"Animal feeding operation" means an animal enclosure a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any twelve-month period. Two or more animal enclosures feeding operations under common ownership or management are deemed to be a single animal feeding operation if the enclosures they are adjacent or utilize a common area or system is utilized for waste the disposal of waste from the enclosures.

"Animal unit" means a unit of measurement used to determine the animal capacity of an animal feeding operation containing two or more species of animals. The animal unit capacity of an operation is determined by multiplying the number of animals of each species by the appropriate equivalency factor from Table 1, and summing the resulting totals for all animal species contained in the operation.

TABLE 1  
Animal Unit Equivalency Factors

<u>Animal Species</u>	<u>Equivalency Factor</u>
<u>Slaughter and feeder cattle</u>	<u>1.0</u>
<u>Mature dairy cattle</u>	<u>1.4</u>
<u>Swine, butcher and breeding (over 55 lbs.)</u>	<u>0.5</u>
<u>Sheep or lambs</u>	<u>0.1</u>
<u>Horses</u>	<u>2.0</u>
<u>Turkeys</u>	<u>0.018</u>
<u>Chickens, broiler or layer</u>	<u>0.01</u>

"Confinement feeding operation" means an totally roofed animal feeding operation consisting of one or more totally roofed animal enclosures in which animals are confined and fed or maintained for 45 days or more in any twelve-month period and in which wastes are stored or removed as a liquid or semi-liquid.

"Construction permit" means a written approval of the executive director department to construct a waste-disposal system waste control facility or part thereof in accordance with the plans and specifications approved by the department.

"Discontinued animal feeding operation" means an animal feeding operation whose use has been discontinued and the owner or operator does not intend to resume its use for a period of twelve months or more.

"Man-made waste drainage system" means a drainage ditch, flushing system, or other drainage device which was constructed by man and is used for the purpose of transporting wastes.

"New animal feeding operation" means an animal feeding operation whose construction was commenced begun on or after August 16, 1976 (effective date of rule revisions), or whose operation is again commenced resumed after having been discontinued for a period of twelve months or more of discontinued operation.

"Open feedlot" means an unroofed or partially roofed animal feeding operation consisting of one or more unroofed or partially roofed animal enclosures in which animals are confined and fed or maintained for 45 days or more in any twelve-month period and in which no crop, vegetation, or forage growth or residue cover is sustained maintained during the period of confinement that animals are confined in the operation.

"Operation permit" means a written permit by the executive director specifying the conditions and requirements under which the operation of a waste-disposal system or part thereof or discharge source is authorized, and, if applicable, the conditions and requirements under which the discharge of wastes from said disposal system or part thereof or discharge source to a water of the state is authorized of the department authorizing the operation of a waste control facility or part thereof.

Item 2. Amend 567--65.2(455B) as follows:

567--65.2(455B) Minimum waste control requirements. Waste control facilities shall be constructed and maintained to meet the minimum waste control requirements stated in the following paragraphs: provided that if site topography, operating procedures, experience and available information indicate that adequate water pollution control can be achieved with less than the minimum requirements, the minimum requirements may be waived; provided further that if site topography, operating procedures, experience and other

available information indicate that more than minimum requirements will be necessary to achieve adequate water pollution control, additional control provisions may be required.

65.2(1) The minimum level of waste control for any animal-feeding operation shall be the removal of settleable solids from the wastes prior to discharge into a water of the state.

a. Settleable solids removal may be accomplished by use of solids settling basins, terraces, diversions, or other solids-removal methods. Construction of solids-settling facilities shall not be required where existing site conditions provide adequate settleable solids removal.

b. Removal of settleable waste solids removal shall be considered adequate when the waste flow velocity of waste flows has been reduced to less than 0.5 foot per second for a minimum of five minutes. Settleable solids-removal facilities shall provide, as a minimum, adequate volume. Sufficient capacity shall be provided in the solids settling facilities to store settled solids between periods of waste disposal and to provide specified required flow-velocity reduction and retention runoff for waste flow volumes resulting from precipitation events of less intensity than the ten-year, one-hour frequency precipitation event. For settleable solids removal from Solids settling facilities receiving open feedlot runoff, shall provide a minimum of one square foot of surface area shall be provided in the solids-removal facilities for each eight cubic feet of runoff per hour resulting from the ten-year, one-hour frequency-precipitation event. Wastes removed from the animal-feeding operation and settled waste solids shall be disposed of by land disposal in accordance with 65-2(6).

65.2(2) The minimum level of waste control for an open feedlot covered by the operation permit application requirements of 65.3(1), 65-3 or 65.3(42) shall be retention of all waste flows from the feedlot area and all other waste contributing areas resulting from the twenty-five-year, twenty-four-hour frequency precipitation event. As an alternative to providing the above specified level of waste control, a feedlot may take such actions as are necessary to eliminate the conditions under which the feedlot was required to apply for a permit, provided that elimination of such conditions will provide an adequate level of waste control. All waste removed from the feedlot and its waste-control facilities shall be disposed of by land disposal in accordance with 65-2(6). Open feedlots which design, construct, and operate waste control facilities in accordance with the requirements of any of the waste control alternatives listed in Appendix A of these rules shall be considered to be in compliance with this rule, unless waste discharges from the waste control facility cause a violation of state water quality standards. If water quality standards violations occur, the department may impose additional waste control requirements upon the feedlot, as specified in 65.2(4).

Control of wastes from open feedlots may be accomplished through use of waste retention basins, terraces, or other runoff control methods. Diversion of uncontaminated surface drainage prior to contact with feedlot or waste storage areas may be required. Waste solids settling facilities shall precede the waste retention basins or terraces.

65.2(3) The minimum level of waste control for a confinement feeding enclosures between periods of waste disposal and land disposal of such wastes in accordance with 65-2(6). In no case shall wastes from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to waters of the state.

a. Control of wastes from confinement feeding operations may be accomplished through use of earthen waste storage structures (such as lagoons or earthen waste storage basins), formed waste storage tanks (such as concrete, steel, or wood tanks), or other waste control methods. Adequate waste storage Sufficient capacity shall be provided in the waste control facilities to retain store all wastes produced between periods of waste disposal. Additional capacity shall be provided if precipitation or wastes from other sources are to be handled by can enter the waste disposal system control facilities.

b. Wastes shall be removed from the waste control facilities as necessary to prevent overflow or discharge of wastes from the facilities. Wastes stored in earthen waste storage structures (lagoons or earthen waste storage basins) shall be removed from such structures as necessary to maintain a minimum of two feet of freeboard in the structure, unless a greater level of freeboard is required to maintain the structural integrity of the structure or prevent waste overflow.

c. To ensure that adequate capacity exists in the waste control facilities to retain all wastes produced during periods when waste disposal operations cannot be conducted (due to inclement weather conditions, lack of available land disposal areas, or other factors), waste shall be removed from the waste control facilities as needed prior to such periods.

65.2(4) If site topography, operation procedures, experience, or other factors indicate that a greater or lesser level of waste control than that specified in 65.2(1), 65.2(2), or 65.2(3) is required to provide an adequate level of water pollution control for a specific animal feeding operation, the department may establish different minimum waste control requirements for that operation.

65.2(45) In lieu of providing using the applicable level of waste control methods specified in 65.2(1), 65.2(2), or 65.2(3), the department may permit allow the use of waste treatment or other methods of waste control when the department if it determines that an adequate level of waste control will be provided result.

65.2(56) No direct waste discharge shall be allowed from an animal feeding operation into a publicly owned lake or impoundment or into, a sinkhole, or an agricultural drainage well.

65.2(67) All wastes removed from an animal feeding operation or its waste control facilities shall be disposed of by land application in a manner which will not cause surface or ground water pollution. Disposal in accordance with the land disposal guidelines adopted by the Iowa water quality commission on June 23, 1976, listed in Appendix B of these rules shall be deemed as compliance with this requirement.

65.2(8) As soon as practical but not later than six months after the use of an animal feeding operation is discontinued, all wastes shall be removed from the discontinued animal feeding operation and its waste control facilities and be disposed of by land application.

Item 3. Strike 567--65.3(455B) and replace it with the following:  
567--65.3(455B) Operation permit required. An animal feeding operation shall apply for and obtain an operation permit if any of the following conditions exist:

65.3(1) The capacity of an open feedlot exceeds any of the following:

- a. 1,000 beef cattle
- b. 700 dairy cattle
- c. 2,500 butcher and breeding swine (over 55 lbs.)
- d. 10,000 sheep or lambs



- e. 55,000 turkeys
- f. 500 horses
- g. 1,000 animal units

65.3(2) Wastes from the operation are discharged into a water of the state through a man-made waste drainage system or are discharged directly into a water of the state which originates outside of and traverses the operation, and the capacity of the operation exceeds:

- a. 300 beef cattle
- b. 200 dairy cattle
- c. 750 butcher and breeding swine (over 55 lbs.)
- d. 3,000 sheep or lambs
- e. 16,500 turkeys
- f. 30,000 broiler or layer chickens
- g. 150 horses
- h. 300 animal units

65.3(3) The department notifies the operation in writing that, in accordance with the departmental evaluation provisions of 65.4(2)"a", application for an operation permit is required.

Item 4. Adopt a new rule 567--65.4(455B) as follows:

567--65.4(455B) Departmental evaluation.

65.4(1) The department may evaluate any animal feeding operation to determine if any of the following conditions exist:

- a. Wastes from the operation are being discharged into a water of the state and the operation is not providing the applicable minimum level of waste control as specified in 65.2(1), 65.2(2), or 65.2(3);
- b. Wastes from the operation are causing or may reasonably be expected to cause pollution of a water of the state; or
- c. Wastes from the operation are causing or may reasonably be expected to cause a violation of state water quality standards.

65.4(2) If departmental evaluation determines that any of the conditions listed in 65.4(1) exists, the operation shall:

- a. Apply for an operation permit if the operation receives a written notification from the department that it is required to apply for an operation permit. However, no operation with an animal capacity less than that specified in 65.3(2) shall be required to apply for a permit unless wastes from the operation are discharged into a water of the state through a man-made waste drainage system or are discharged into a water of the state which traverses the operation.

- b. Institute necessary remedial actions to eliminate such conditions if the operation receives a written notification from the department of the need to correct such conditions. This paragraph shall apply to all permitted and unpermitted animal feeding operations, regardless of animal capacity.

Item 5. Change existing 567--65.4(455B) to 567--65.5(455B) and further amend it as follows:

900--65.5(455B) Operation permits.

65.5(1) Existing animal feeding operations holding an operation permit. Animal feeding operations which hold a valid operation permit issued by the department or the Iowa department of health August 16, 1976, prior to (effective date of rule revisions) shall are not be required to reapply for a state an operation permit but shall submit such information as deemed necessary by the executive director to determine conformity of the operation with rules of the department within ninety days of receipt of a request for such information from the executive director. The previous sentence notwithstanding, However, such operations shall make application are required

to apply for permit renewal in accordance with 65.45(10) for continued operation beyond the permit expiration date.

65.5(2) Existing animal feeding operations not holding an operation permit. Animal feeding operations in existence on August 16, 1976, and (effective date of rule revisions) which are covered by the operation permit provisions of 65.3(1) to 65.3(4) or 65.3(2) but have not obtained a permit shall make application apply for a state an operation permit prior to April 1, 1977 (new date which is six months after effective date of rule revisions). Once proper application has been made and the application is in process, continued operation of the animal feeding operation is authorized to continue to operate without a permit is authorized unless and until the application has either been approved or disapproved by the executive director department.

65.5(3) Expansion of existing animal feeding operations. A person intending to expand an existing animal feeding operation which will, upon completion of the expansion, will be covered by the operation permit provisions of 65.3(1) to 65.3(4) or 65.3(2) shall apply for a state an operation permit at least ninety one hundred eighty days prior to the date operation of the expanded facility is scheduled unless a shorter period of time is approved by the executive director. The previous sentence notwithstanding, a person intending to expand an existing animal feeding operation which would, upon completion of the expansion, be subject to 40 C.F.R. subsection 125.51 as amended by 41 Federal Register 11460 (March 18, 1976) shall apply for a state operation permit at least one hundred eighty days prior to the date operation of the expanded facility is scheduled. A person shall not begin operation of the expanded portion of the facility without first obtaining shall not begin until an operation permit from the executive director has been obtained.

65.5(4) New animal feeding operations. A person intending to initiate begin a new animal feeding operation which will, upon completion, will be covered by the operation permit provisions of 65.3(1) to 65.3(4) or 65.3(2) shall apply for a state an operation permit at least ninety one hundred eighty days prior to the date operation of the new animal-feeding facility is scheduled, unless a shorter period of time is approved by the executive director. The previous sentence notwithstanding, a person intending to initiate a new animal-feeding operation which operation would, upon completion, be subject to 40 C.F.R. subsection 125.51 as amended by 41 Federal Register 11460 (March 18, 1976) shall apply for a state operation permit at least one hundred eighty days prior to the date operation of the new animal-feeding facility is scheduled. A person shall not begin operation of such the new facility without first obtaining shall not begin until an operation permit from the executive director has been obtained.

65.5(5) Permits required as a result of departmental investigation evaluation. An animal feeding operation which is required to apply for a state an operation permit as a result of departmental investigation evaluation (in accordance with the provisions of 65.3(5) 65.4(2)"a") shall make application apply for an operation permit within ninety day of receiving written notification by the executive director of the need to apply for obtain a permit. Once proper application has been made and the application is in process, continued operation of the animal feeding operation without an operation permit is authorized to continue to operate without a permit is authorized unless and until the application has either been approved or disapproved by the executive director department.

65.5(6) Voluntary operation permit applications. Applications for operation permits received from animal feeding operations not meeting the

operation permit requirements of 65.3(1) to 65.3(3) will be acknowledged by the department and returned to the applicant. Operation permits will not be issued for facilities not meeting the permit requirements of 65.3(1) to 65.3(3).

65.5(67) Application forms. An application for an operation permit shall be made on a form provided by the department. The application shall be complete and shall include contain such detailed information as deemed necessary by the executive director department. The application shall be signed by the person who is legally responsible for the animal feeding operation and its associated waste control system.

65.4(7) Deadline for acting on operation-permit applications for new or expanded operations. The executive director shall issue or deny an operation permit for new or expanded operation within ninety days of receipt of a complete application unless a longer period of time is required and the applicant is so notified in writing prior to expiration of the ninety-day period. Notwithstanding the ninety-day requirement of 65.4(3) and 65.3(4), operation of the approved system may commence immediately after the issuance of an operation permit.

65.5(8) Compliance schedule. When necessary to comply with a present standard or a standard which must be met at a future date, an operation permit shall include a schedule for alteration modification of the permitted facility to meet said the standard. Such schedule shall not relieve the permittee of the duty to obtain a construction permit pursuant to 65.5(4) 65.6(1).

65.5(9) Permit conditions. Operation permits shall contain such conditions as are deemed considered necessary by the executive director department to assure compliance with all applicable rules of the department, to assure the waste disposal system is properly operated and maintained, to protect the public health and beneficial uses of state waters, and to prevent water pollution from waste storage or disposal operations. Self-monitoring and reporting requirements which may be imposed on animal feeding operations are specified in departmental rule 63.4(1).

65.5(10) Permit renewal. An operation permit may be granted issued for any period of time not to exceed five years. An application for renewal of an operation permit must be submitted to the department at least one hundred twenty eighty days in advance of prior to the date the permit expires. Each permit to be renewed shall be subject to the provisions of those rules of the department which apply to the operation facility at the time of renewal.

a. An operation permit which contains an expiration date will be reviewed at the time of renewal to determine the need for an operation permit in accordance with 65.3(4) to 65.3(5). An A permitted animal-feeding operation which does not meeting the operation-permit requirements of 65.3(1) to 65.3(53) will be exempted from the need to retain that permit at the time of permit renewal, and the existing operation permit will not be renewed.

b. An operation permit which does not contain an expiration date will be reviewed to determine the need for an operation permit in accordance with 65.3(4) to 65.3(5). An animal-feeding operation not meeting the operation-permit requirements of 65.3(4) to 65.3(5) will be exempted from the need to retain that permit at the time of permit review, and the existing operation permit will be revoked. An animal-feeding operation which meets the operation-permit requirements of 65.3(4) to 65.3(5) will be notified of the need to retain an operation permit at the time of permit review, and the existing operation permit shall be modified to include an expiration date.

65.5(11) Permit modification, suspension, or revocation. The executive director department may modify, suspend, or revoke in whole or in part any



operation permit for cause. Cause for modification, suspension, or revocation of a permit may include the following:

- a. Violation of any term or condition of the permit.
- b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- d. Failure to submit the records and information as that the executive director department shall requires both generally and as a condition of the operation permit in order to assure compliance with the operation and discharge conditions specified in of the permit.

Item 6. Change existing 567--65.5(455B) to 567--65.6(455B) and further amend it as follows:

567--65.6(455B) Construction permits.

65.6(1) Animal feeding operations for which required to obtain a construction permit is required.

a. An animal feeding operation covered by the operation permit application requirements provisions of 65.3(1) to 65.3(43) shall obtain a construction permit prior to constructing, installing, or modifying a the waste storage and disposal control system for that animal feeding operation. Animal feeding operations required to obtain an operations permit under provisions of 65.3(5) shall obtain a construction permit for any required upgrading of its waste disposal system.

b. A confinement feeding operation shall obtain a construction permit prior to constructing, installing, or modifying a waste control system for that operation if any of the following conditions exist:

1. The confinement feeding operation uses an anaerobic lagoon as part of its waste control system.
2. The capacity of a confinement feeding operation using an earthen waste storage facility other than an anaerobic lagoon exceeds:

<u>Species</u>	<u>Animal Capacity Exceeds</u>
<u>Slaughter and feeder cattle</u>	<u>200</u>
<u>Mature dairy cattle</u>	<u>140</u>
<u>Swine, butcher and breeding (over 55 lbs.)</u>	<u>500</u>
<u>Turkeys</u>	<u>11,000</u>
<u>Chickens, broiler or layer</u>	<u>18,000</u>
<u>Animal units</u>	<u>200</u>

3. The capacity of a confinement feeding operation using formed waste storage tanks (e.g. concrete tanks, concrete block tanks, wood tanks, or steel tanks) exceeds:

<u>Species</u>	<u>Animal Capacity Exceeds</u>
<u>Slaughter and feeder cattle</u>	<u>2,000</u>
<u>Mature dairy cattle</u>	<u>1,400</u>
<u>Swine, butcher and breeding (over 55 lbs.)</u>	<u>5,000</u>
<u>Turkeys</u>	<u>110,000</u>
<u>Chickens, broiler or layer</u>	<u>180,000</u>
<u>Animal units</u>	<u>2,000</u>

65.6(2) Permit application. An application animal feeding operation required to obtain a construction permit in accordance with the provisions of 65.6(1) shall apply for a construction permit must be submitted at least

ninety days before the date that in advance of the planned date of start of construction, installation, or modification of the waste control system is scheduled to start.

65.6(2) Deadline for acting on construction permit applications. The executive director shall act upon the application within sixty days of receipt of a complete application by either issuing a construction permit or denying the construction permit in writing, unless a longer review period is required and the applicant is so notified in writing prior to expiration of the sixty-day period. Notwithstanding the ninety-day requirement in 65.3(4) above, construction of the approved system may commence immediately after the issuance of a construction permit.

65.6(3) Application forms. Application for a construction permit shall be made on a form provided by the department. The application shall be complete and shall include such detailed engineering plans as determined necessary by the executive director department.

65.6(4) Plan requirements. Waste storage and disposal facility control system plans shall be designed and submitted in conformance with chapter 114 of the Code of Iowa.

65.6(5) Plan review criteria. Review of plans and specifications shall be conducted to determine the potential of the proposed waste disposal control system to achieve the level of waste control being required of the animal feeding operation. In conducting this review, applicable criteria contained in these rules, federal guidelines and standards specifications, soil conservation service design standards and specifications, and department of commerce precipitation data, and the land disposal guidelines adopted by the Iowa water quality commission on June 23, 1976, shall be used. For waste control systems which include use of anaerobic lagoons, the separation distance requirements contained in 455B.133 and the design criteria contained in the department's chapter 22 and 23 rules shall also be used. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

Item 7. Change existing rule 567--65.6(455B) to 567--65.7(455B), and further amend it as follows:

567--65.7(455B) Transfer of legal responsibilities or title. If legal responsibility for a permitted animal feeding operation and its associated disposal waste control system is transferred, the person to whom legal responsibility is transferred shall be subject to all terms and conditions of said permit. The person to whom the permit was issued shall notify the department shall be notified of the transfer of legal responsibility or title of such an operation within thirty days of the transfer.

Item 8. Change existing rule 567--65.7(455B) to 567--65.8(455B).

Item 9. Adopt a new rule 567--65.9, as follows:

567--65.9(455B) Interpretive rule. Iowa Code section 172D.3 defines the applicability of rules of the department adopted after November 1, 1976, by delaying their applicability to some existing animal feeding operations. However, the 1987 revisions of these rules in effect reduce the regulation by permit of existing or new animal feeding operations or merely clarify the rules adopted and implemented prior to November 1, 1976. Therefore, Iowa Code section 172D.3 shall not be construed to diminish or delay applicability of this Chapter 65, as revised in 1987, to any animal feeding operation. In the event a court rules otherwise, the rules in effect prior to the 1987 revisions shall apply.

Item 10. Adopt Appendix A to Chapter 65, as shown in the attached Appendix A.

Item 11. Amend the "Guidelines of Iowa Water Quality Commission on Land Disposal of Animal Wastes," currently an addendum to Chapter 65, as shown in the attached Appendix B.

---

Larry J. Wilson, Director

## APPENDIX A

### WASTE CONTROL ALTERNATIVES FOR OPEN FEEDLOTS

Introduction: Water pollution control requirements for animal feeding operations are given in Chapter 65 of the rules of the Iowa Department of Natural Resources. Under these rules, open feedlots meeting the operation permit application requirements of rules 65.3(1) or 65.3(2) must also comply with the minimum waste control requirements of rule 65.2(2). Rule 65.2(2) requires that all feedlot runoff and other waste flows resulting from precipitation events less than or equal to the twenty-five year, twenty-four hour rainfall event be collected and land applied.

This appendix describes four feedlot runoff control systems that meet the requirements of rule 65.2(2). The systems differ in the volume of waste storage provided and in the frequency of waste disposal. In general, the time interval between required disposals increases with increased storage volume.

A feedlot operator who constructs and operates a waste control facility in accordance with the requirements of any of these four systems will not have additional waste control requirements imposed, unless waste discharges from the facility cause state water quality standards violations.

In describing the four systems, the major features of each are first reviewed, followed by detailed information on the construction and operation requirements of the system. The system descriptions are presented in this appendix as follows:

System	Pages
System 1: One Waste Disposal Period Per Year . . . . .	2-3
System 2: July and November Waste Disposal . . . . .	4-5
System 3: April, July, and November Waste Disposal . . . .	6-7
System 4: Disposal After Each Significant Precipitation Event . . . . .	8-9
Figures 1-3 . . . . .	10-11

### SYSTEM 1: ONE WASTE DISPOSAL PERIOD PER YEAR

#### MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average annual runoff from all feedlot and nonfeedlot areas which drain into the waste control system (additional storage is required if process waters or wastes from other sources also drain into the control system).
- Collected wastes must be removed from the control system and land applied at least once annually (interval between successive disposals cannot exceed twelve months).

#### DETAILED SYSTEM REQUIREMENTS:

Waste Control System: The waste control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Waste solids settling facilities which meet or exceed the requirements of rule 65.2(1) must precede the feedlot runoff control system.
2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:
  - A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 1.
  - B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 1.
  - C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:
    - The amount of runoff expected from these areas as a result of the twenty-five year, twenty-four hour precipitation event\*
    - The average annual runoff expected from these areas\*
  - D. The volume determined by multiplying the total roof, farmstead, and driveway area draining into the control system by the average annual runoff expected from these areas\*
  - E. The volume of process wastewater which drains into the control system during a twelve-month period.

F. The volume of wastes from other sources which discharges into the control system during a twelve-month period.

\*Expected twenty-five year, twenty-four hour and average annual runoff values shall be determined using runoff prediction methodologies of the U. S. Soil Conservation Service (or equivalent methodologies).

Waste Disposal Requirements: Wastes must be removed from the waste control system and land applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, solids shall be removed at least once annually.
2. Feedlot Runoff Control System: Accumulated wastes shall be removed from the feedlot runoff control system and disposed of by land application at least once annually. The interval between successive disposal periods shall not exceed twelve months.

During disposal periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated wastes from the runoff control system in ten (10) or fewer disposal days. Waste removal is considered complete when the wastes remaining in the runoff control system occupy less than ten (10) percent of the system's design waste storage volume.

Land application of wastes shall be conducted on days when weather and soil conditions are suitable. Weather and soil conditions are normally considered suitable for waste disposal if:

- Land disposal areas are not frozen or snow-covered
- Temperatures during disposal are greater than 32 degrees Fahrenheit
- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding disposal and no precipitation is occurring on the day of disposal.

## **SYSTEM 2: JULY AND NOVEMBER WASTE DISPOSAL**

### **MAJOR SYSTEM FEATURES:**

- Adequate capacity must be provided to collect and store the average runoff expected to occur over the eight-month period from December 1 through July 31 from all feedlot and nonfeedlot areas which drain into the waste control system (additional storage is required if process waters or wastes from other sources also drain into the control system).
- Collected wastes may be removed from the control system and land applied during any period of the year that conditions are suitable. While disposal during other periods will minimize the need for July and

November disposal, sufficient wastes must still be disposed of during July and November to reduce the volume of wastes remaining in the control system during these months to less than ten (10) percent of the system's design waste storage volume.

**DETAILED SYSTEM REQUIREMENTS:**

Waste Control System: The waste control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Waste solids settling facilities which meet or exceed the requirements of rule 65.2(1) must precede the feedlot runoff control system.
2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:
  - A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 2.
  - B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 2.
  - C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:
    - The amount of runoff expected from these areas as a result of the twenty-five year, twenty-four hour precipitation event\*
    - The average runoff expected to occur from these areas during the eight-month period from December 1 to July 31\*
  - D. The volume determined by multiplying the total roof, farmstead and driveway area draining into the control system by the average runoff expected to occur from these areas during the eight-month period from December 1 to July 31\*
  - E. The volume of process wastewater which drains into the control system during the eight-month period from December 1 through July 31.
  - F. The volume of wastes from other sources which discharges into the control system during the eight-month period from December 1 through July 31.

\*Expected twenty-five year, twenty-four hour runoff and average runoff for the eight-month period December 1 through July 31 shall be determined using runoff prediction methodologies of the U. S. Soil Conservation Service (or equivalent methodologies).

Waste Disposal Requirements: Wastes must be removed from the waste control system and land applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, solids shall be removed at least once annually.

2. Feedlot Runoff Control System:

A. A feedlot operator must comply with the following waste disposal requirements if disposal operations are limited to the months of July and November.

During these months, land application shall be conducted at rates sufficient to ensure complete removal of accumulated wastes from the runoff control system in ten (10) or fewer disposal days. Waste removal is considered complete when the wastes remaining in the runoff control system occupy less than ten (10) percent of the system's design waste storage capacity.

During July and November, waste disposal operations shall be initiated on the first day that conditions are suitable for land application of wastes, and disposal must continue on subsequent days that suitable conditions exist. If unfavorable weather conditions prevent complete disposal of wastes to be accomplished during July or November, disposal must be continued into the following month. Waste disposal operations may cease when complete disposal has been achieved.

Weather and soil conditions are normally considered suitable for land application of wastes if:

- Land disposal areas are not frozen or snow-covered
- Temperatures during disposal are greater than 32 degrees Fahrenheit
- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding disposal and no precipitation is occurring on the day of disposal.

B. A feedlot operator may dispose of accumulated wastes during any period of the year that conditions are suitable. While disposal during other periods will minimize the need for disposal during July and November, the feedlot operator will still need to dispose of sufficient wastes during July and November to reduce the waste volume remaining in the runoff control system during these months to less than ten (10) percent of the system's design waste storage capacity.

A feedlot operator who does not limit waste disposal operations to the months of July and November is not required to comply with the specific waste disposal requirements which apply when disposal is

limited to those months. However, this does not relieve the feedlot operator of the responsibility to conduct disposal operations at rates and times which are sufficient to ensure that the waste volume remaining in the runoff control system during July and November will be reduced to less than ten (10) percent of the system's design waste storage capacity.

### SYSTEM 3: APRIL, JULY AND NOVEMBER WASTE DISPOSAL

#### MAJOR SYSTEM FEATURES:

- Adequate capacity must be provided to collect and store the average runoff expected to occur during the five-month period from December 1 through April 30 from all feedlot and nonfeedlot areas which drain into the waste control system (additional storage is required if process waters or wastes from other sources also drain into the control system).
- Collected wastes may be removed from the control system and land applied during any period of the year that conditions are suitable. While disposal during other periods will minimize the need for disposal during the specified disposal months, sufficient wastes must still be disposed of during April, July and November to reduce the volume of wastes remaining in the control system during these months to less than ten (10) percent of the system's design waste storage volume.

#### DETAILED SYSTEM REQUIREMENTS:

Waste Control System: The waste control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Waste solids settling facilities which meet or exceed the requirements of rule 65.2(1) must precede the feedlot runoff control system.
2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:
  - A. The volume determined by multiplying the unpaved feedlot area which drains into the control system by the appropriate runoff value from Figure 3.
  - B. The volume determined by multiplying the paved feedlot area which drains into the control system by 1.5 times the appropriate runoff value from Figure 3.
  - C. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the greater of the following:



- The amount of runoff expected from these areas as a result of the twenty-five year, twenty-four hour precipitation event\*
  - The average runoff expected to occur from these areas during the five-month period from December 1 to April 30\*
- D. The volume determined by multiplying the total roof, farmstead, and driveway area draining into the control system by the average runoff expected to occur from these areas during the five-month period from December 1 to April 30\*
- E. The volume of process wastewater which drains into the control system during the five-month period from December 1 through April 30.
- F. The volume of wastes from other sources which discharges into the control system during the five-month period from December 1 through April 30.

\*Expected twenty-five year, twenty-four hour runoff and average runoff for the five-month period December 1 through April 30 shall be determined using runoff prediction methodologies of the U. S. Soil Conservation Service (or equivalent methodologies).

Waste Disposal Requirements: Wastes must be removed from the waste control system and land applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, solids shall be removed at least once annually.

2. Feedlot Runoff Control System:

- A. A feedlot operator must comply with the following waste disposal requirements if disposal operations are limited to the months of April, July and November.

During these months, land application shall be conducted at rates sufficient to ensure complete removal of accumulated wastes from the runoff control system in ten (10) or fewer disposal days. Waste removal is considered complete when the wastes remaining in the runoff control system occupy less than ten (10) percent of the system's design waste storage capacity.

During April, July and November, waste disposal operations shall be initiated on the first day that conditions are suitable for land application of wastes, and disposal must continue on subsequent days that suitable conditions exist. If unfavorable weather conditions prevent complete disposal of wastes to be accomplished during any of these months, waste disposal must be continued into the following month. Waste disposal operations may cease when complete disposal has been achieved.

Weather and soil conditions are normally considered suitable for land application of wastes if:

- Land disposal areas are not frozen or snow-covered.
- Temperatures during disposal are greater than 32 degrees Fahrenheit.
- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding disposal and no precipitation is occurring on the day of disposal.

- B. A feedlot operator may dispose of accumulated wastes during any period of the year that conditions are suitable. While disposal during other periods will minimize the need for disposal during April, July and November, the feedlot operator will still need to dispose of sufficient wastes during July and November to reduce the waste volume remaining in the runoff control system during these months to less than ten (10) percent of the system's design waste storage capacity.

A feedlot operator who does not limit waste disposal operations to the months of April, July and November is not required to comply with the specific waste disposal requirements which apply when disposal is limited to those months. However, this does not relieve the feedlot operator of the responsibility to conduct disposal operations at rates and times which are sufficient to ensure that the waste volume remaining in the runoff control system during April, July and November will be reduced to less than ten (10) percent of the system's design waste storage capacity.

#### **SYSTEM 4: DISPOSAL AFTER EACH SIGNIFICANT PRECIPITATION EVENT**

##### **MAJOR SYSTEM FEATURES:**

- Adequate capacity must be provided to collect and store the runoff expected to occur as a result of the twenty-five year, twenty-four hour precipitation event from all feedlot and nonfeedlot areas which drain into the waste control system (additional storage is required if process waters or wastes from other sources also drain into the control system).
- Collected wastes must be removed from the control system and land applied whenever the available (unoccupied) storage capacity remaining in the control system is less than ninety (90) percent of that needed to store runoff from the twenty-five year, twenty-four hour storm -- land application must begin on the first day that conditions are suitable and must continue until disposal is completed.

DETAILED SYSTEM REQUIREMENTS:

Waste Control System: The waste control system must be constructed to meet or exceed the following requirements:

1. Solids Settling Facilities: Waste solids settling facilities which meet or exceed the requirements of rule 65.2(1) must precede the feedlot runoff control system.
2. Feedlot Runoff Control System: The feedlot runoff control system shall, as a minimum, have adequate capacity to store the total wastewater volume determined by summing the following:
  - A. The volume determined by multiplying the total feedlot area which drains into the control system by the amount of runoff expected to occur from this area as a result of the twenty-five year, twenty-four hour precipitation event\*
  - B. The volume determined by multiplying the total area of cropland, pasture and woodland draining into the control system by the amount of runoff expected to occur from these areas as a result of the twenty-five year, twenty-four hour precipitation event\*
  - C. The volume determined by multiplying the total roof, farmstead and driveway area draining into the control system by the amount of runoff expected to occur from these areas as a result of the twenty-five year, twenty-four hour precipitation event\*
  - D. The volume of process wastewater which drains into the control system during the five-month period from December 1 through April 30.
  - E. The volume of wastes from other sources which discharges into the control system during the five-month period from December 1 through April 30.

\*Expected twenty-five year, twenty-four hour runoff shall be determined by using runoff prediction methodologies of the U. S. Soil Conservation Service (or equivalent methodologies).

Waste Disposal Requirements: Wastes must be removed from the waste control system and land applied in accordance with the following requirements:

1. Solids Settling Facilities: Collected solids must be removed from the solids settling facilities as necessary to maintain adequate capacity to handle future runoff events. As a minimum, solids shall be removed at least once annually.
2. Feedlot Runoff Control System: Accumulated wastes shall be removed from the feedlot runoff control system and disposed of by land application following each precipitation or snowmelt runoff event which results in significant waste accumulations in the control system. Waste accumulations will be considered significant whenever the available (unoccupied) storage capacity remaining in the control system is less

A number of factors affect the environmental hazard potential of animal waste disposal. These include chemical composition of waste materials, the rate and frequency of waste application disposal, crops grown, land topography, and soil characteristics.

Due to the number of factors involved, it is not ~~presently~~ possible to make specific recommendations which take into account all variables. However, conducting animal waste disposal operations in accordance with the recommendations can be made to assure that animal waste disposal will not increase existing environmental hazards or create new given below should minimize environmental or crop growth problems production hazards. The recommendations made below are made with this goal in mind.

#### WASTE APPLICATION RATE

- A. Nitrogen: ~~Excessive~~ Nitrogen applications are of concern to the Iowa Water Quality Commission, since excessive applications may result in excessive cause increased nitrate leaching into groundwaters waters.

To minimize the potential for nitrate leaching to ground waters, it is recommended that total annual nitrogen application rates (considering both manure and commercial nitrogen sources) not exceed the annual nitrogen use requirements of the crops being grown.

In certain instances, insufficient land disposal areas or other factors make it necessary to apply wastes at rates which exceed annual crop nitrogen needs. To avoid minimize problems resulting from such applications, the following recommendations are made:

21. The maximum total nitrogen application to land in any one year should not exceed four hundred pounds per acre. In determining total nitrogen applications, both manure and commercial fertilizer sources should be considered.
22. Annual nitrogen application rates should not exceed two hundred fifty pounds available nitrogen per acre. This level of application should only be used with high nitrogen use crops. In determining available nitrogen applications, both manure and commercial fertilizer sources should be considered.

The following guidelines can be used to determine the available nitrogen content of animal waste is considered to be:

- (a) During the first crop season following waste application, the available nitrogen content is:
  1. Seventy-five percent of the total nitrogen content of the applied waste if the wastes is are injected or is incorporated into the soil immediately following application.
  2. Fifty percent of the total nitrogen content of the applied wastes if the wastes is are surface applied and allowed to dry prior to incorporation into the soil.

- (b) During the second crop season following waste application, the available nitrogen content is twelve and one-half percent of the total nitrogen content of the applied wastes.
  - (c) During the third crop season following waste application the available nitrogen content is 7% seven percent of the total nitrogen content of the applied wastes.
  - (d) After more than three crop seasons following waste application, no further credit to available nitrogen is given to the applied wastes.
3. For proposed annual available nitrogen applications in excess of two hundred fifty pounds available nitrogen per acre, a specific crop management plan should be developed. This plan should indicate amounts and frequency of nitrogen applications, cropping systems and harvesting frequency, projected nitrogen removal by the crops, and other projected nitrogen losses. Nitrogen applications in excess of two hundred fifty pounds of available nitrogen should not be made if the crop management plan indicates that surface or ground water pollution may result.
- B. Phosphorus: It should be recognized that providing satisfying crop nitrogen needs through application of animal wastes alone will, in most cases, result in phosphorus applications in excess of crop requirements. Excessive phosphorus applications are of concern since excessive high soil phosphorus buildup levels may lead to crop production problems. To avoid such problems, the following recommendations are made:
- 1. For soils testing low in phosphorus (soil test levels below forty-five pounds per acre), phosphorus applications in excess of crop removal can be used to obtain maximum crop production.
  - 2. For soils where tests indicate adequate phosphorus levels (between forty-five and one hundred sixty pounds per acre), phosphorus applications at rates equivalent to should not exceed crop uptake are recommended rates.

In determining waste application rates which will comply with the above recommendations, a producer should know the chemical composition of the wastes, the soil fertility level, and the nutrient requirements of his the crops production system produced. Several sources of this information are is available from several sources.

It is recommended that the chemical composition of a the wastes material can be determined by having a representative sample analyzed by a laboratory. As an alternative, a producer can use estimated nutrient composition values determined by previous research. A summary of representative nutrient composition data on animal wastes is contained in Midwest Plan Service booklet "Livestock Waste Facilities Handbook," MWPS-18, 4975 1985, which is available from the Co-operative Extension Service of Iowa State University.

Soil fertility levels can best be determined by periodic soil tests. Information on soil testing is available from the Iowa State University Extension Service of Iowa State University. Information on crop nutrient requirements can be obtained from a number of sources, including the Iowa State University Extension Service.

#### WASTE DISPOSAL ON FROZEN OR SNOW-COVERED LAND

It is recommended that waste disposal on frozen or snow-covered land should be avoided, if possible. If wastes are spread on frozen or snow-covered land, it is recommended that disposal should be limited to land areas on which:

- (a) land slopes are four percent or less, or
- (b) adequate erosion control practices ~~or diversions~~ exist. Adequate erosion control practices might may include such practices as terraces, ~~muleh~~ conservation tillage, cover crops, ~~or~~ contour farming, or similar practices.

#### WASTE DISPOSAL ON LAND SUBJECT TO FLOODING

It is recommended that wastes applied on land subject to flooding more than once every ten years should be incorporated into the soil within thirty days after spreading. It is recommended that wastes should not be spread on such areas during frozen or snow-covered conditions. Wastes applied at usual peak flood periods (April, May, and June) should be injected or immediately incorporated into the soil.

#### WASTE DISPOSAL ON LAND NEAR WATERCOURSE ADJACENT TO WATER BODIES

Where waste runoff might enter any of the following, it is recommended that wastes should not be spread disposed of on land areas which are located closer than within two hundred feet to of and drain into any of the following unless adequate erosion control practices exist and the wastes are injected or incorporated into soil:

- (a) stream
- (b) surface intake of tile line or other buried conduit
- (c) sinkhole<sup>s</sup>
- (d) shoreline of a lake or pond
- (e) any well with an open surface inlet

No wastes should be spread on waterways except for the purpose of establishing seedings.

In both cases, we think it important for Iowa to remain a participating and supportive member of these associations. On the Missouri River, we are faced with the difficult task of attempting to evaluate consumptive uses in the basin and to negotiate an acceptable approach for dealing with new uses that avoids litigation. Over time we hope to achieve an agreement, perhaps as an interstate compact, and develop a basis of understanding that results in a cohesive multi-state approach to development in the basin which protects existing uses.

On the Mississippi River, we are in the midst of implementation of the Environmental Management Program which provides federal funds for enhancing and maintaining critical environmental and fish and wildlife habitat values on the river. Much of this work is being done cooperatively among the states and will result in a number of substantial projects in Iowa over the next several years.

Both the dues structure and the status of Iowa's accounts will be discussed at the meeting.

Mr. Combs stated that each state pays \$35,000 per year in dues to the Upper Mississippi River Basin Association through 1989. The annual budget for 1987 is \$208,900 which comes to \$41,780 per state. \$6,780 comes from the funds that the Association has built up over the years.

Mr. Combs explained that there is a proposal being considered to divide the cash reserve into state shares. Basically, they will divide the total amount by five and allocate that amount to each state. From that share would come either the \$6,780 or the total \$41,780 depending whether or not the state is paying annual dues.

Robert Schlutz inquired as to the amount the Association has in reserve at this time. Mr. Combs stated that they now have a little over \$400,000. Iowa's share of the balance, beginning FY 1987, would be about \$83,000. Mr. Combs stated that if Iowa pays the 1987 dues out of that balance the state would end up with a balance of \$48,000. He further explained that there is enough money in the account to pay Iowa's dues (\$35,000 plus the reserve allocation) through 1988. At the end of 1988, Iowa will have no money left in the account with the Upper Mississippi River Basin Association.

Mr. Combs stated that the Missouri River Basin Association split their cash reserve into state accounts a year ago. Their budget is \$1.9 million for five years which is about \$400,000 annually. There are ten states in the Missouri Association. Iowa is the only state in either Association that does not pay dues. The reserve balance for the Missouri Association is \$505,000. The Missouri Association has been assessing Iowa for the past years dues they have not paid, so Iowa is now out of money in that Association.

Discussion followed regarding the Commission's participation in the Associations, payment of dues, water use and allocation, and the use of the dues.

Director Wilson stated that J. Edward Brown, the Department's representative to the Associations, will explain the use of the dues and have a financial report at the December meeting.

The Commission agreed to leave this decision package requesting an appropriation for these dues in the FY 88 budget request with the understanding that they would approve the expenditure of funds for the dues.

#### HAZARDOUS WASTE STORAGE FACILITY PLAN UPDATE

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The draft plan was presented to the Commission in October. Since then, the draft plan has been sent to an advisory group for review and comment. Three public meetings on this plan are scheduled for early December.

A final draft of this plan will be presented to the Commission at their December meeting. The plan will be submitted to the Governor and the General Assembly by January 1, 1987.

James Combs stated that a meeting is scheduled in December with the advisory group that helped with the siting criteria. He stated that public meetings are scheduled on December 9, 10 and 11 to discuss the plan with people in Des Moines, Iowa City and Atlantic.

Linda Appelgate requested that the Commissioners be provided a comprehensive listing of people who are on various technical and advisory committees for the Department.

#### GROUND WATER PROTECTION STRATEGY

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Recommendations are being drafted for discussion by the Commission. Concurrently, plans are being made to present recommendations to the Technical and Advisory Committees and at public meetings which will be held (tentatively) in Waterloo, Spencer, Atlantic, Des Moines, and Washington between November 17 and November 26th. Results of the ground water public opinion poll will be presented for discussion.

Mr. Combs stated that several months ago staff asked the Commissioner's to prioritize 13 issues affecting ground water. This was also done with ten different groups, including 200 members of the public in a telephone survey. The priorities came out very close on all ten groups for the first six items on the list.

Staff has divided the 13 items into four priority groups as far as the issues facing the state. Priority level one includes: (a) agricultural use of nitrogen fertilizer, (b) agricultural use of pesticides, (c) abandoned hazardous waste disposal sites, dumps and unpermitted land disposal. Priority level two includes: (a) underground storage tanks and pipelines, (b) landfills, (c) storage, handling and transportation of hazardous waste.

Mr. Combs stated that staff considers those to be the areas requiring the most attention, as the strategy is put together.



Priority level three includes: (a) agricultural drainage wells, (b) abandoned wells and sinkholes. Priority level four includes: (a) land application of solid and liquid waste, (b) lagoons and pits, (c) septic systems, (d) urban use of nitrogen fertilizer and pesticides.

Mr. Combs stated that public meetings are scheduled as follows: November 17 - Waterloo, November 18 - Spencer, November 19 - Des Moines, November 24 - Atlantic, November 25 - Washington. The technical and advisory committees will meet again after the public meetings are completed.

#### TRANSFER OF WAWM RULES

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Attached is the rule package necessary to transfer most existing rules of the Water, Air and Waste Management Department to the Department of Natural Resources, under authority of the Environmental Protection Commission. The Administrative Rules Review Committee, the Administrative Rules Coordinator, the Attorney General's Office, and the Code Editor have concurred that the new umbrella agencies may and should adopt rules "emergency" (without the normal notice and public participation) when they are merely transferring existing rules, with minimal technical changes. The Code Editor has requested that this agency adopt and file its rules by November 14, 1986.

The preamble to this rule package more fully explains what is being done here. The Commission is requested to adopt these rules.

#### ENVIRONMENTAL PROTECTION COMMISSION (567) Emergency Adopted and Implemented

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1806 and Iowa Code section 455B.105 as amended by 1986 Iowa Acts, Senate File 2175, section 1899, the Environmental Protection Commission emergency adopts rules to implement, in an orderly manner, the provisions of 1986 Iowa Acts, Senate 2175 and for the effective administration of the Department of Natural Resources. The department was created effective July 1, 1986, by 1986 Iowa Acts, Senate File 2175 which consolidated the activities of the Department of Water, Air and Waste Management (DWAWM), the Conservation Commission (CC), the Iowa Geological Survey (IGS) and the Energy Policy Council (EPC). The Environmental Protection Commission was created pursuant to 1986 Iowa Acts Senate File 2175, section 1806 and is authorized to establish policy for the department and adopt rules, pursuant to Chapter 17A, necessary to provide for the effective administration of Chapter 455B, 455C or 469.

This action pertains only to the transfer and renumbering of existing substantive rules Chapters 8 through 153, previously adopted by the Water, Air and Waste Management Commission. Chapters 1 through 7 shall be amended or transferred by separate rulemaking actions.

In compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation is unnecessary and impracticable since there are few substantive changes from existing rules and it is beneficial to the department and the public to have a coherent, unified set of rules for the new department reflecting its new organization and programs effective immediately.

It is the intent of this particular filing to simply transfer existing substantive and procedural rules with a minimum of change. The full texts of all rules being transferred verbatim or very minor word changes such as changing "executive director" to "director" are not set forth in full because this is unnecessary and impracticable. Instead, general directions to the Code Editor are provided in Items 1, 2, 18, 56, and 76. Copies of existing rules can be obtained from the department for the cost of reproduction and mailing.

The commission is also proposing to amend specific provisions of the rules to correct errors in cross-reference, grammar, statutory definitions, form numbers, references affected by departmental reorganization, and to conform to statutory changes. A description of the specific changes is provided.

Items 3, 4, 5, 7, 20, 22, 27, 36, 49, 55, 63, 64, 65, 71, 73, 76, 78, 80, and 81 amend rules of the commission which refer to form names and numbers. Forms will no longer be referred to with the prefix "WAWM."

Items 6, 20, 28, 36, 48, 63, 64, 65, and 73 relate to amendments to rules referring to the department's Record Center. As a result of the reorganization, the responsibility for supplying department documents such as forms has been transferred from the Records Center to various administrative support stations. These stations are described within the rules to provide access to the information available to the public which is necessary to comply with the department's requirements.

A number of improper cross-references within the rules were discovered and are corrected in Items 8, 9, 10, 11, 12, 13, 21, 23, 24, 25, 39, 40, 42, and 78. Also, references to gender made within some rules have been eliminated by amendments to those rules which are described in Items 15, 16, 17, 41, 66, and 79.

Although in Items 1 and 2 references to various agency names or personnel have been substituted with the names given as a result of the reorganization, specific changes of this sort are made in Items 18, 34, 37, 43, 44, 45, 47, 50, 51, 52, 53, 56, and 74. These items pertain to the names of divisions or sections within agencies which are specified within the rules and which have been renamed.

Item 14 pertains to the clarification of subrule 900--23.4(12). The commission, in 1978, amended the first unnumbered paragraph of subrule 23.4(12). The original and amended paragraphs continue to appear in the rules although one version is no longer in effect. Confusion is prevented by eliminating the paragraph no longer in effect.

Item 19 relates to the registration of a well construction or reconstruction contractors. The department is registering these contractors for either one (1) or five (5) years. The rule provides for a registration period of one (1) to five (5) years. This error is corrected.

Item 26 corrects a grammatical error found in rule 49.11, to make it clear that wells or pump installations are to undergo disinfection.

Items 29 through 35 pertain to Chapters 50, 51, and 52 developed pursuant to the department's authority to allocate the withdrawal, diversion, and storage of water within the state of Iowa. The rules describe and mandate the relationship between the department and other state agencies, particularly the Iowa Geological Survey. The merger of the Department of Water, Air and Waste Management and Iowa Geological Survey, both now a part of the Department of Natural Resources, requires that resulting changes in the interrelationship between the two former departments be reflected in Chapter 52. For this reason references to the Iowa Geological Survey are amended to read the "geological survey bureau of the department."

Item 38 amends paragraph 900--61.3(5)"e" by removing from beneath the lake name, "Floyd," a line.

Item 54 amends rule 900--73.1 by renumbering subrule 72.1(2) as 73.1(2).

Items 57 through 62 relate to amendments to Chapter 81 as it pertains to the certification of operators of wastewater treatment plants, water treatment plants, and water distribution systems. Prior to the passage of Senate File 2175, a statutorily created seven member board of certification appointed by the governor existed which was responsible for examining candidates for certification and for suspending or revoking certificates. This board was eliminated by Senate File 2175 and the board's responsibilities were transferred to the director of the department. Chapter 81 which, in part, pertains to the process of certification and the responsibilities of the board, is amended to conform to the amendments to Iowa Code section 455B.212 through 455B.221 passed by the legislature as Senate File 2175.

Items 67 through 70 pertain to changes in Chapter 107, "Beverage Container Deposits" which are made necessary by amendments to Iowa Code Chapter 455C. This includes clarification of the applicability of 455C, Item 67, and the amendment of definitions "alcoholic liquor" or "intoxicating liquor," "beer" and "alcoholic beverage," Items 68, 69, and 70, respectively.

Item 72 pertains to the definition of "solid waste." The definition is amended to conform to the statutory definition.

Finally, Item 75 relates to the submission of written reports to the department following the existence of a hazardous condition. Subrule 900--131.2(2) is amended to allow 30 days to submit the report as "is provided by Iowa Code section 455B.386.

The commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of these rules, thirty-five days after publication, should be waived and the rules be made effective on the date of publication, December 3, 1986, because benefits are conferred upon the public by having a coherent, unified set of regulations which implement the important public welfare programs of the department.

The commission adopted these rules at its regular meeting on November 13, 1986. These rules implement Iowa Code chapters 258A, 358A, 414, 455B, 455C and 469.

Item 1. Transfer, verbatim, as rules of the Environmental Protection Commission of the Department of Natural Resources, chapters 9, 10, 24, 25, 26, 27, 28, 29, 51, 52, 53, 54, 65, 69, 71, 72, 74, 75, 76, 91, 101, 102, 103, 104, 105, 106, 107, 108, 121, 132, 141, and 150 of the existing rules of the Department of Water, Air and Waste Management. Wherever the words "executive director" appear, substitute the word "director." Wherever the words "Water, Air and Waste Management," "Water Quality Commission," "board of certification," "board," "Natural Resources Council," "Iowa Geological Survey," "Conservation Commission," "WAM," "IGS," "Energy Policy Council" or "EPC" appear, substitute the word "department." Wherever the words "Water, Air and Waste Management Commission" appear, substitute the words "Environmental Protection Commission." Wherever the words "Historical Department" appear, substitute the words "Historical Division of the Department of Cultural Affairs." Wherever the words "Bureau of Labor" appear, substitute the words "Labor Division of the Department of Employment Services." Wherever the term "Development Commission" appears, substitute the words "Department of Economic Development." Wherever the words "Soil Conservation" appear, substitute the words "Soil Conservation Division, Department of Agriculture and Land Stewardship." Wherever the words

"Department of Revenue" appear, substitute the words "Department of Revenue and Finance." Wherever the words "Office for planning and programming" appear, substitute the words "Department of Management." Wherever the words "Iowa beer and liquor control department" appear, substitute the words "Alcoholic Beverages Division of the Department of Commerce." Wherever the words "regional office" appear, substitute the words "field office."

Item 2. Existing rules chapters 8, 20, 21, 22, 23, 37, 40, 41, 49, 50, 60, 61, 62, 63, 64, 70, 73, 81, 90, 100, 109, 120, 131, 135, 140, 143, and 149 are modified in other items in this notice but are transferred in large part to Environmental Protection Commission of the Department of Natural Resources. Wherever the words "executive director" appear, substitute the word "director." Wherever the words "Water, Air and Waste Management," "Water Quality Commission," "board of certification," "board," "Natural Resources Council," "Iowa Geological Survey," "Conservation Commission," "WAWM," "IGS," "Energy Policy Council" or "EPC" appear, substitute the word "department." Wherever the words "Water, Air and Waste Management Commission" appear, substitute the words "Environmental Protection Commission." Wherever the words "Historical Department" or "Iowa Historical Department" appear, substitute the words "Historical Division of the Department of Cultural Affairs." Wherever the words "Bureau of Labor" appear, substitute the words "Labor Division of the Department of Employment Services." Wherever the term "Development Commission" appears, substitute the words "Department of Economic Development." Wherever the words "Soil Conservation" appear, substitute the words "Soil Conservation Division, Department of Agriculture and Land Stewardship." Wherever the words "Department of Revenue" appear, substitute the words "Department of Revenue and Finance." Wherever the words "Office for planning and programming" appear, substitute the words "Department of Management." Wherever the words "Iowa beer and liquor control department" appear, substitute the words "Alcoholic Beverages Division of the Department of Commerce." Wherever the words "regional office" appear, substitute the words "field office."

Item 3. Amend rule 900--8.2(455B) to read as follows:  
900--8.2(427, 17A) Form. A complete Form 54-064 PR-01675, which is available through the local county assessor, the department of revenue and finance, or this department, must be submitted in order to request certification under this chapter. In completing this form, the applicant may adopt by reference any pertinent information contained in an application for a permit submitted to the department.

Item 4. Amend rule 900--9.2(455B) to read as follows:  
900--9.2(455B, 17A) Forms. The following forms are to be used by local agencies implementing this authority:

WAWM Form 1 (reserved) (542-1001)

WAWM Form 2 (reserved) (542-1002)

WAWM Form 3 Review checklist for water main extensions (542-1003)

WAWM Form 4 Review checklist for sewer extensions (542-1004)

WAWM Form 5 Permitting authority quarterly report (542-1005)

Item 5. Amend subrules 900--9.4(5) and 9.4(6) to read as follows:

9.4(5) The local public works department shall use the same forms (WAWM Form 3 and WAWM Form 4) used by the department in reviewing plans, and a copy of the applicable "review checklist" shall be submitted to the department with the permit copy, upon issuance of each permit.

9.4(6) The local public works department shall submit a complete quarterly report (WAWM Form 5) by the fifteenth day of the month following each quarter of the calendar year.

Item 6. Amend the first unnumbered paragraph of rule 900--20.3(455B) to read as follows:  
900--20.3(455B) Air quality forms generally. The following forms are used by the public to apply for various departmental approvals and to report on activities related to the air programs of the department. All forms may be obtained from the central office:

Records Center Administrative Support Station - Environmental Protection Division

Iowa Department of Water, Air and Waste Management Natural Resources  
Henry A. Wallace Building  
900 East Grand  
Des Moines, Iowa 50319

Item 7. Amend subrules 900--20.3(1), (2), and (3) to read as follows:

20.3(1) Application for a permit to install or alter equipment or control equipment. All applications for a permit to install or alter equipment or control equipment pursuant to 22.1(455B) shall be made in accordance with the instructions for completion of application form WAWM Form 6, "Application and Permit to Install or Alter Equipment or Control Equipment" (542-3190). Applications submitted which are not fully or properly completed will not be reviewed until such time as a complete submission is made. A permit to install or alter equipment or control equipment will be denied when the application does not meet all requirements for issuance of such permit.

This request form is a three-page form in triplicate requiring the party requesting certification to specify: The date on which construction of the property for which certification is sought was completed; the name and address of the taxpayer; the location of property; a legal description of the land upon which the property is located; the type of property; whether or not a permit was obtained; and if not, why not; and descriptive information concerning the use and function of the property.

20.3(2) Application for variance from open burning rules. All applications for variance from open burning rules pursuant to 22.2(455B) shall be made in accordance with the instructions for completion of application form WAWM7 "Application for Variance from Open Burning Rules" (542-3204).

20.3(3) Air pollution preplanned abatement strategy forms. The submission of standby plans for the reduction of emissions of air contaminants during the periods of an air pollution episode, as requested by the executive director pursuant to 22.3(455B) shall be made in accordance with the instructions for completion of application forms WAWM8-1 (alert level), WAWM8-2 (warning level), and WAWM8-3 (emergency level) provided by the department.

Further amend subrule 900--20.3(4) by striking paragraphs "a" through "d" and by amending the first unnumbered paragraph as follows:

20.3(4) Air contaminant emissions survey forms. The submission of emissions information pursuant to 22.2(3) shall be made in accordance with instructions for completion of survey forms described in paragraphs 1a, 1b, 1c, or 1d provided by the department. Form WAWM9 is to be filed out simultaneously with the appropriate form described in paragraph 1b, 1c, or 1d.

Further amend subrule 900--20.3(5) to read as follows:

20.3(5) Notification of corrective action in response to notice of vehicle emission violation form WAWM10. "Vehicle emission violation" Form WAWM10 is a postcard informing the department, in response to a notice of vehicle emission violation by a gasoline-powered or diesel-powered vehicle, pursuant to 23.3(2)"d"(2) and 23.3(2)"d"(3), that corrective action has been taken. It requests that the recipient specify what repairs were made to eliminate

further violation of vehicle emission rules.

Item 8. Amend the first unlettered paragraph of subrule 900--21.3(1) by substituting for the words "chapter 4" the words "chapter 23" where it appears.

Item 9. Amend subrule 900--22.3(2) to read as follows:

22.3(2) Anaerobic lagoons. A construction permit for an anaerobic lagoon shall be issued when the executive director concludes that the application for permit represents an approach to odor control that can reasonably be expected to comply with the standard specified in subrule 23.5(4) and the criteria in 23.5(31) or 23.5(42).

Item 10. Amend paragraph 900--22.5(4)"a" by substituting for '22.5(5)"b"', '22.5(4)"b"' where it appears in the fourth sentence.

Item 11. Amend subrule 900--23.2(2) to read as follows:

23.2(2) Variances from rules. Any person wishing to conduct open burning of materials not exempted in 23.2(3) may make application for a variance as specified in 23.2(1).

Item 12. Amend the first paragraph of paragraph 900--23.3(2)"a" to read as follows:

a. Process weight rate. The emission of particulate matter from any process shall not exceed the amount determined from Table I, except as provided in 22.2(455B), 23.1(455B), 23.4(455B) and chapter 24. If the executive director determines that a process complying with the emission rates specified in Table I is causing or will cause air pollution in a specific area of the state, an emission standard of 0.1 grain per standard cubic foot of exhaust gas may be imposed.

Item 13. Amend subparagraph 900--23.3(3)"a"(5) to read as follows:

(5) If a state of Iowa ambient air quality standard for sulfur dioxide specified in chapter 49 28 of these rules is exceeded as demonstrated. . . .

Item 14. Replace the first unnumbered paragraph of subrule 900--23.4(12) with subrule 900--23.4(12)\*.

Item 15. Amend subrule 900--25.1(7) as follows:

25.1(7) Tests by owner. The owner of new or existing equipment or his the owner's authorized agent shall notify. . . .

Item 16. Amend subrule 900--26.4(1), paragraph "d", as follows:

d. Special conditions. When the executive director determines that a specified episode level has been reached at one or more monitoring sites solely because of emissions from a limited number of sources, he the director shall specify the persons. . . .

Item 17. Amend subrule 900--29.1(2) as follows:

29.1(2) Procedures. For stationary sources, the qualified observer stands at a distance from the base of the stack necessary to obtain a clear view of the appropriate portion of the plume, with the sun to his the observer's back.

Item 18. Wherever the words "Iowa Geological Survey" appear in 900--Chapter 37, substitute the words "Geological Survey Bureau, Department of Natural Resources."

Item 19. Amend the last sentence of subrule 900--37.4(2) to read as follows:

. . . .A contractor may register for a period of one ~~to~~ or five years.

Item 20. Amend rule 900--40.3(17A, 455B) to read as follows:

900--40.3(17A, 455B) Forms. The following forms are used by the public to apply for department approvals and to report on activities related to the public water supply program of the department. All forms may be obtained from the Central Office, Records Center, Environmental Protection Division,



Administrative Support Station, Iowa Department of Water, Air and Waste Management Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319-0032. Properly completed application forms should be submitted to the Water Permit Branch, Program Operations Division, Water Supply Section, Environmental Protection Division. Reporting forms should be submitted to the appropriate field office (see rule 1.4 (455B)).

40.3(1) Construction permit application forms. WAWM42 Schedules "1" through "16d" are required.

"1" - General Information	<u>542-3178</u>
"1a" - Fee Schedule	<u>542-3179</u>
"1b" - Certification of Project Design	<u>542-3174</u>
"2a" - Water Mains, General	<u>542-3030</u>
"2b" - Water Mains, Specifications	<u>542-3031</u>
"3a" - Water System, Preliminary Data	<u>542-3032</u>
"3b" - Water Quality Data	<u>542-3029</u>
"3c" - Surface Water Quality Data	<u>542-3028</u>
"4" - Site Selection	<u>542-3078</u>
"5a" - Well Construction	<u>542-1005</u>
"5b" - Well Appurtenances	<u>542-3026</u>
"5c" - Well Profile	<u>542-1006</u>
"5d" - Surface Water Supply	<u>542-3139</u>
"6a" - Distribution Water Storage Facilities	<u>542-3140</u>
"6b" - Distribution Pumping Station	<u>542-3141</u>
"7" - Schematic Flow Diagram	<u>542-3142</u>
"8" - Aeration	<u>542-3143</u>
"9" - Clarification/Sedimentation	<u>542-3144</u>
"10" - Suspended Solids Contact	<u>542-3145</u>
"11" - Cation Exchange Softening	<u>542-3146</u>
"12" - Filters	<u>542-3147</u>
"13a" - Chemical Addition	<u>542-3241</u>
"13b" - Dry Chemical Addition	<u>542-3130</u>
"13c" - Gas Chlorination	<u>542-3131</u>
"13d" - Fluoridation	<u>542-3132</u>
"13e" - Sampling and Tests	<u>542-3133</u>
"14" - Pumping Station	<u>542-3134</u>
"15" - Process Water Storage Facilities	<u>542-3135</u>
"16a" - Wastewater, General	<u>542-3136</u>
"16b" - Waste Treatment Ponds	<u>542-3137</u>
"16c" - Filtration and Mechanical	<u>542-3138</u>
"16d" - Discharge to Sewer	<u>542-3103</u>
40.3(2) Operation permit application forms.	
a. <u>WAWM Form 13-1--community</u>	
b. <u>WAWM Form 13-2--noncommunity</u>	
40.3(3) Public water supply reporting forms.	
a. <u>WAWM Form 14--plant operations</u>	<u>542-3104</u>
b. <u>WAWM Form 15--analyses by certified laboratories</u>	
(1) Individual bacterial analysis reporting--	
<u>WAWM Form 15-1a</u>	<u>542-3195</u>
(2) Summary bacterial analysis reporting--	
<u>WAWM Form 15-1b</u>	<u>542-3196</u>
(3) Chemical analysis reporting--	
<u>WAWM Form 15-2</u>	<u>542-3166</u>

(4) Corrosivity analysis reporting--

WAWM Form 15-3

542-3193

Item 21. Amend the first unnumbered paragraph of subrule 900--40.4(1) by changing the internal reference to 41.12(4) to 41.12(3).

Item 22. Amend subrule 900--40.4(4) by striking the reference to Form WAWM 12.

Item 23. Amend the first paragraph of subparagraph 900--41.4(2)"c"(2) to read as follows:

(2) Noncommunity systems, upon approval by the department, may be permitted to reduce their sampling frequency if they can demonstrate that no risk to health will result and they are maintaining a continuous chlorine residual as specified in 41.4314(2)"a".

Item 24. Amend the first paragraph of subparagraph 900--41.4(5)"f" to read as follows:

f. Before a community water system makes any modifications to its existing treatment process for the purposes of achieving compliance with 41.3(2)"ec", such system must submit and obtain department approval of a plan setting forth its proposed modification and any safeguards that it will implement to ensure that the bacteriological quality of the drinking water served by such system will not be adversely affected by such modification.

Item 25. Amend subrule 900--49.6(2) to read as follows:

49.6(2) Minimum protective depth of wells. All wells shall be watertight to such depths as is necessary to exclude pollution. Ordinarily, the top ten feet of soil will be subject to intermittent contamination; and, in some cases, this zone may extend to even greater depths. Under no circumstances shall water be derived from a depth of less than twenty feet unless a variance is granted in accordance with rule 49.4(435 455B).

Item 26. Amend rule 900--49.11(455B) to read as follows:

900--49.11(455B) Water analysis. The contractor or owner of new, repaired or reconditioned well or pump installations, upon being properly disinfected disinfecting the well or pump installations, as outlined in rule 49.10(435), shall submit a water specimen to the university hygienic laboratory at Iowa City (previously known as the state hygienic laboratory) or to another approved laboratory for bacterial and nitrate analysis. Information regarding the procurement of water specimen, bottles, fees, etc., can be obtained from local boards of health, the department of water, air and waste management or the university hygienic laboratory.

Item 27. Amend rule 900--50.3(17A, 455B) to read as follows:

900--50.3(17A, 455B) Forms for withdrawal, diversion or storage of water.

50.3(1) Application forms. The following application forms are currently in use:

Form WAWM16: Application for Permit to Divert, Store, or Withdraw Water for Beneficial Use. 7/83. 542-3105

Form WAWM17: Application for Permit to Use Water for Irrigation. 7/83. 542-3106

Form WAWM18: Application for Permit to Store Water for Beneficial Use. 7/83. 542-3109

Form WAWM19: Application for Permit to Divert or Withdraw Water for Production and Processing of Sand, Gravel, or Rock Materials. 7/83. 542-3110

Form WAWM20: Application for minor nonrecurring use of water. 7/83. 542-3112

50.3(2) Supplementary information forms. The following forms are used to obtain additional information to supplement various types of applications:



Form WAWM16-1: Supplement to Application for Permit to Divert, Store, or Withdraw Water for Beneficial Use. 6/85. 542-3262

Form WAWM17-1: Supplement to Application for Permit to Use Water for Irrigation Use from Reservoirs. 7/83. 542-1007

Form WAWM17-2: Supplement to Application for Permit to Use Water for Irrigation Use from Wells. 7/83. 542-3107

Form WAWM17-3: Supplement to Application for Permit to Use Water for Irrigation Use from Streams. 7/83. 542-3108

Form WAWM19-1: Supplemental Data for Application for Permit to Divert or Withdraw Water for Production and Processing of Sand, Gravel, or Rock Materials. 7/83. 542-3111

Form WAWM21: Survey of Land Owners and Occupants. 7/83. 542-3113

Form WAWM22: Well Inventory Form. 7/83. 542-3114

Form WAWM122: Water Well Inspection Report. 3/86.

50.3(3) Reporting forms. The following forms are for reporting permitted activities:

Form WAWM23: Report of Water Use by all Regulated Users Except Irrigators and Producers of Sand, Gravel, or Rock Aggregate. 7/83. 542-3115

Form WAWM24: Report of Water Use for Irrigation. 7/83 542-3116

Form WAWM25: Report of Water Use for Aggregate Production or Mining. 7/83. 542-3117

Form WAWM26: Water Permit Validation Form. 7/83. 542-1008

Form WAWM27: Water Level Measurement Report Form. 7/83. 542-1009

Item 28. Amend paragraph 900--50.4(1)"c" to read as follows:

c. Where to submit application. An application must be mailed or delivered to the water permit branch, program operations division, department of water, air and waste management Water Supply Section, Environmental Protection Division, Department of Natural Resources, East 9th and Grand, Des Moines, Iowa 50319.

Item 29. Amend subrule 900--50.5(2) by striking the last sentence.

Item 30. Amend paragraph 900--50.6(1)"a"(1) as follows:

(1) Test drilling. In cases where test drilling is needed for geological information relevant to the application, the applicant is responsible for employing a driller who will collect, bag and properly label cutting samples at each five-foot interval and at each apparent change in geological formation from a test hole or production well hole at least the approximate depth of the proposed production well. The cutting samples must be saved for collection by the department or the Iowa geological survey in sample bags provided by the Iowa geological survey bureau of the department. The samples shall be accompanied by a driller's log showing the location and total depth of the hole and a description of the materials encountered at successive intervals.

Item 31. Amend subrule the first sentence of 900--51.6(3) to read as follows:

51.6(3) Test pumping. The department may authorize by registration test pumping of sources of water to determine adequacy of the source and affects of such withdrawals and may require applicant to acquire technical assistance of the Iowa Geological Survey bureau of the department or other appropriate sources of such assistance so as to maintain supervision of the testing as deemed necessary by the department.

Further amend subrule 900--51.6(6) to read as follows:

51.6(6) Research contracts. The withdrawal of water for research purposes by the Iowa Geological Survey (IGS) bureau of the department (GSB) through its agents, employees, or contractees may be authorized by registration in aquifers approved by the department and under such conditions as the

department may set. Such registration shall be for periods of up to one year and may be reregistered at the discretion of the department ~~upon request by the IGS~~ should the research require more than one year to complete. The withdrawal of water pursuant to such registration shall be conducted under the direct supervision of the IGS GSB and its employees and according to a schedule adopted by or approved by IGS GSB. The IGS GSB shall contract with each individual who is cooperating in the research. Such contract shall delineate the responsibilities of each party to the research. A copy of each such contract shall be filed by IGS with the department. The violation of any provision of said contract by any party thereto shall be grounds for the department to revoke the registration of that contractee. If withdrawal of water pursuant to this registration results in serious adverse effects on the aquifer or on any other water user, the department shall revoke the registration as it applies to the particular research site causing such serious adverse effect.

Item 32. Amend paragraph 900--52.4(3)"c" and paragraphs 52.4(4)"b" and "c" by substituting for the words "Iowa Geological Survey" the words "geological survey bureau" where they appear.

Item 33. Amend subrule 900--52.6(4) by substituting for the words "Iowa Geological Survey" the words "Geological Survey Bureau" where they appear.

Item 34. Amend the first unnumbered paragraph of subrule 900--52.20(4) to read as follows:

52.20(4) Criteria for renewal of water storage permits. In addition to considering the criteria in subrule 52.9(1), the department shall review its most recent INRG dam safety inspection report as part of the review of an application for renewal of a water storage permit and shall consider the following additional factors:

Item 35. Amend the first unnumbered paragraph of rule 900--53.2(455B) to read as follows:

900--53.2(455B) Designation of protected sources. The department, after consultation with the Iowa geological survey bureau of the department and other authorities, may designate a surface water or groundwater source within a defined geographical area as a protected source.

Item 36. Amend rule 900--60.3(455B, 17A) to read as follows:

900--60.3(455B, 17A) Forms. The following forms are used by the public to apply for departmental approvals and to report on activities related to the wastewater programs of the department. All forms may be obtained from the central office, Records Center, Iowa Department of Water, Air and Waste Management Environmental Protection Division, Administrative Support Station, Iowa Department of Natural Resources, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0032. Properly completed application forms should be submitted in accordance with the instructions, to the wastewater permits branch program operations section, Environmental Protection Division. Reporting forms should be submitted to the appropriate field office (see rule 1.4(455B)).

60.3(1) Construction permit application forms.

a. WWM Schedules 28 - Schedules "A" to "S".

"A" - General Information	542-3129
"B" - Collection System	542-3095
"C" - Lateral Sewer System	542-3096
"D" - Trunk and Interceptor Sewer	542-3097
"E" - Pump Station	542-3098
"F" - Treatment Project Site Selection	542-3099
"G" - Treatment Project Design Data	542-3106

"H1" - Schematic Flow Diagram	<u>542-3101</u>
"H2" - Treatment Process Removal Efficiency	<u>542-3102</u>
"H3" - Mechanical Plant Reliability	<u>542-3239</u>
"I" - Screening, Grit Removal and Flow Measurement	<u>542-3089</u>
"J" - Septic Tank System	<u>542-3090</u>
"K1" - Controlled Discharge Pond	<u>542-3091</u>
"K2" - Aerated Pond	<u>542-3092</u>
"K3" - Anaerobic Lagoon	<u>542-3093</u>
"L" - Settling Tanks	<u>542-3094</u>
"M" - Fixed Film Reactor--Stationary Media	<u>542-3081</u>
"N" - Rotating Biological Contactor	<u>542-3082</u>
"O" - Aeration Tanks or Basins	<u>542-3083</u>
"P" - Gas Chlorination	<u>542-3084</u>
"Q" - Sludge Dewatering and Disposal	<u>542-3085</u>
"R1" - Sludge Dewatering and Disposal	<u>542-3086</u>
"R2A" - Low Rate Land Application of Sludge (Part I)	<u>542-3087</u>
"R2B" - Low Rate Land Application of Sludge (Part II)	<u>542-3088</u>
"S" - Land Application of Wastewater (To be developed)	
b. <u>WAWM Form 29--Sewage Treatment Agreement</u>	<u>542-3219</u>
60.3(2) Operation permit application forms.	
a. <u>WAWM Form 30 - public or private domestic sewerage systems</u>	<u>542-3220</u>
b. <u>WAWM Form 31 - treatment agreement</u>	<u>542-3221</u>
c. <u>WAWM Form 32 - industrial, manufacturing or commercial systems</u>	<u>542-3228</u>
d. <u>WAWM Form 33 - confinement animal feeding operations</u>	<u>542-3224</u>
e. <u>WAWM Form 34 - open feedlots</u>	<u>542-3225</u>
60.3(3) Wastewater monitoring report forms.	
a. <u>WAWM Form 35-1 - general/monthly</u>	<u>542-3226</u>
b. <u>WAWM Form 35-2 - general/quarterly</u>	<u>542-3227</u>
c. <u>WAWM Form 35-3 - commercial/industrial contributor/monthly</u>	<u>542-3228</u>
d. <u>WAWM Form 35-4 - general/monthly</u>	<u>542-3229</u>
e. <u>WAWM Form 35-5 - waste stabilization lagoons</u>	<u>542-3230</u>
f. <u>WAWM Form 35-6 - trickling filter</u>	<u>542-3231</u>
g. <u>WAWM Form 35-7 - activated sludge/contact stabilization</u>	<u>542-3232</u>
h. <u>WAWM Form 35-8 - commercial/industrial contributor/quarterly</u>	<u>542-3233</u>

Item 37. Amend paragraph 900--60.4(1)"a" by striking the reference "WAWM" where it appears.

Item 38. Amend paragraph 900--61.3(5)"e", "Lakes" by striking the underlining of the lake name, Floyd.

Item 39. Amend subparagraph 900--62.3(2)"d"(3) to read as follows:

(3) The less concentrated influent wastewater is not the result of excessive infiltration/inflow (I/I). A system is considered to have nonexcessive I/I when an average wet weather influent flow (as defined in the department's design standards 900--64.2(9)"b", Chapter 14.4.5.1.b) comprised

of domestic wastewater plus infiltration plus inflow equals less than 275 gallons per day per capita.

900--63.7(455B) Frequency of submitting records of operation. Except as provided in 63.1(2)(455B), records of operation required by these rules shall be submitted at monthly intervals. The department may vary the interval at which records of operation shall be submitted in certain cases. Variation from the monthly interval shall be made only under such conditions as the department may prescribe in writing to the person concerned.

Item 41. Amend subrule 900--64.2(6) as follows:

64.2(6) The construction permit shall expire if construction thereunder is not commenced within one year of the date of issuance thereof. The executive director may grant an extension of time to commence construction if he finds it is necessary or justified, upon showing of such necessity of justification to the director.

Item 42. Amend paragraph 900--64.3(1)"g" to read as follows:

g. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 4540 300 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR subsection 153.10(e) (Pollution by Oil and Hazardous Substances).

Item 43. Amend subrule 900--64.5(4), paragraph "a", last sentence, as follows:

. . . Should the executive director fail to incorporate any written recommendation thus received, he the director shall provide to the affected state or states and to the regional administrator a written explanation of his the reasons for failing to accept any written recommendation.

Item 44. Amend subrule 900--64.5(4), subparagraph (1) of paragraph "b", as follows:

(1) The department and the district engineer for each corps of engineers district within the state may arrange for: Notice to the district engineer of minor discharges; waiver by the district engineer of his the right to receive fact sheets. . . .

Item 45. Amend subrule 900--64.6(3), last sentence, as follows:

. . . The executive director may, in his discretion, in addition to the specification of daily quantitative limitations by weight, specify other limitations such as average or maximum concentration limits, for the level of pollutants authorized in the discharge.

Item 46. Amend subrule 900--64.6(5), paragraph "c" (introductory), as follows:

c. That the permittee shall permit the executive director or the executive director's authorized representative upon the presentation of his or her credentials:

Item 47. Amend the Guidelines of Iowa Water Quality Commission on Land Disposal of Animal Wastes, addendum to Chapter 900--65, page 2, 4th full paragraph, as follows:

In determining waste application rates which will comply with the above recommendations, a producer should know the chemical composition of the wastes, the soil fertility level, and the nutrient requirements of his the producer's crop production system. Several sources of this information are available.

Item 48. Amend paragraph 900--70.4(1)"a" to read as follows:

a. Where to submit application. An application must be mailed or delivered to the flood plain branch, program operations division, department of water, air and waste management Flood Plain Management Section Environmental Protection Division, Administrative Support Station, Iowa Department of

Natural Resources, Henry A. Wallace Building, 900 East 9th and Grand, Des Moines, Iowa 50319.

Item 49. Amend rule 900--70.3(17A, 109, 455B, 469) to read as follows: 900--70.3(17A, 109, 455B, 469) Forms. The following forms are currently in use for flood plain projects.

Form WAWM36: Application for Approval of Construction in or on any Floodway or Flood Plain. 8/85 542-3234

Form WAWM37: Notification of Completion of Construction. 7/83. 542-3017

Form WAWM38: Temporary Stream Crossing for Highway Construction. 7/83. 542-1011

Item 50. Amend paragraph 900--70.5(3)"c" to read as follows:

c. Solicitation of expert comments on environmental effects. For channel changes or other development which may cause significant adverse effects on the wise use and protection of water resources, water quality, fish, wildlife and recreational facilities or uses, the department shall request comments from the Iowa conservation commission liaison fish and wildlife division of the department or other knowledgeable sources.

Item 51. Amend subrule 900--71.10(2) to read as follows:

71.10(2) Exempted nonfloating boat docks. Recreational nonfloating type boat docks located on the Mississippi and Missouri rivers, and the conservation pools of the Coralville, Rathbun, Red Rock, and Saylorville reservoirs shall not require department approval, other than provided a permit is obtained from the Iowa Conservation Commission parks, recreation and preserves division of the department.

Item 52. Amend paragraph 900--72.51(4)"c" to read as follows:

c. Interested agency notification. Notify regional planning commissions, county boards of supervisors, city councils, soil conservation districts through which the nominated stream runs, the Iowa conservation commission fish and wildlife division of the department, the department of soil conservation, the department of agriculture and the Iowa geological survey bureau of the department.

Item 53. Amend paragraph 900--72.51(5)"c" to read as follows:

c. Interagency coordination. Invite the Iowa conservation commission fish and wildlife division of the department, the Iowa geological survey bureau, and any other agency or governmental subdivision expressing an interest in the proceeding to participate in the field investigation and preparation of the report, and request their assessment of whether extension of department jurisdiction over the nominated stream would have either an adverse or beneficial impact on their agency's water resource programs.

Item 54. Amend rule 900--73.1(109, 455B, 469) by renumbering subrule 72.1(2) as 73.1(2).

Item 55. Amend subparagraph 900--73.1(2)"a"(2) to read as follows:

(2) Where operating plan is not related to proposed construction. If an operating plan is required because of a change in use of a dam and is not related to proposed structural modification of the dam, the proposed operating plan should be submitted to the department in writing together with department application form WAWM36, described in rule 900--70.3(455B). The applicant should indicate on form WAWM36 that structural modification of the dam is not proposed.

Item 56. Amend subrule 900--75.7(1) by substituting the words "department" for "chief of flood plain branch program operations divisions" where it appears.

Item 57. Amend subrule 900--81.2(9) to read as follows:

81.2(9) Compliance plan. When the board of certification director allows the owner of a facility required to have a certified operator time to obtain an operator, the owner must submit a compliance plan indicating what action will be taken to obtain a certified operator. The plan must be on a form ~~(WAWM)52~~ "Compliance Plan 542-3120", provided by the department and must be submitted within thirty days of the facility owner's receipt of a notice of violation.

Item 58. Amend subrule 900--81.8(1) to read as follows:

81.8(1) All persons wishing to take the examination required to become a certified operator of a wastewater or water treatment plant or a water distribution system shall complete an application for examination the "Operator Certification Examination Application" form WAWM48, (542-3118). A listing of dates and locations of examinations is available from the central office upon request. The application form requires the applicant to indicate educational background, training and past experience in water or wastewater operation. The completed application and the application fee shall be sent to the board of certification director and addressed to the central office in Des Moines. Application for examination must be received by the department at least thirty days prior to the date of examination.

Further amend the remainder of subrules 900--81.8(2), (8) and (9) by substituting the word "director" for the word "board" where it appears.

Further amend subrule 900--81.8(9) by striking the words "or members of the board" in the second sentence of that subrule.

Item 59. Amend subrule 900--81.9(2) to read as follows:

81.9(2) Application for certification must be received by the department within thirty days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form WAWM49 provided by the department and shall be accompanied by the certification fee.

Further amend subrules 900--81.9(4) through 81.9(7) as follows:

81.9(4) For applicants who have been certified under other state mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the board department, certification in an appropriate classification and grade, without examination, will be recommended by the board to the executive director.

81.9(5) For applicants who have been certified under voluntary certification programs in other states, certification in an appropriate class will be considered for recommendation by the board to the executive director. The applicant must have successfully completed an examination generally equivalent to the Iowa examination and must meet the education and experience qualifications established by the executive director. The board director may at its discretion require the applicant to successfully complete the Iowa examination.

81.9(6) Applicants who seek Iowa certification pursuant to subrule 81.9(4) or 81.9(5) shall submit an application for examination accompanied by a letter requesting certification pursuant to those subrules. Application for certification pursuant to those subrules shall be received by the executive director in accordance with 81.9(2) and 81.9(3).

81.9(7) Upon written request by an operator the board may recommend to the executive director may determine that the further education requirements be waived where a plant grade has been increased and the operator has been in direct responsible charge of the existing plant. An operator successfully completing the examination will be restricted to that plant or system until the education requirements are met.



Item 60. Amend the first sentence of subrule 900--81.10(2) to read as follows:

81.10(2) Currently certified operators will be mailed an application for renewal (WAMMSO) prior to the expiration date of their certificates.

Item 61. Amend subrule 900--81.10(9) to read as follows:

81.10(9) The board director may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which to fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator which prevent attendance at the required activities. All requests for extensions must be made prior to March 31 of each biennium.

Item 62. Amend subrule 900--81.13(3) to read as follows:

81.13(3) Procedure.

a. The executive director shall initiate disciplinary action. The board commission may direct that the executive director investigate any alleged factual situation that may be grounds for disciplinary action under 81.13(1), and report the results of the investigation to the board commission.

b. A disciplinary action may be prosecuted by the executive director.

c. Written notice by certified mail shall be given to an operator against whom disciplinary action is being considered, at least twenty days in advance, that an informal hearing before the board commission at a specified date, time and place has been scheduled for his or her the operator, at which the board commission will determine whether a formal hearing is warranted or whether informal resolution can be reached. The operator may present any relevant facts and indicate his or her the operator's position in the matter.

d. An operator who receives notice of informal hearing shall communicate verbally or in writing or in person with the executive director and efforts shall be made to clarify the respective positions of the operator and executive director. The staff may then come with a recommendation to the board commission at the informal hearing concerning disciplinary sanction.

e. Failure to attend the informal hearing or otherwise communicate facts and position relevant to the matter by the scheduled date will be considered by the board commission in its determination when determining whether a formal hearing is warranted.

f. If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the board commission concurs, a written stipulation and settlement between the board department and the operator shall be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

g. If the board commission determines that no disciplinary action is warranted on the facts asserted, that decision shall be reflected in the board minutes and the operator shall be notified of the decision in writing.

h. If the board commission determines that a formal hearing is warranted to determine the appropriateness of any disciplinary sanction specified in 81.13(2), it the director shall direct the department to initiate formal hearing procedures. Notice and formal hearing shall be in accordance with chapter 55 7 of the rules of the department related to contested and certain other cases pertaining to operator discipline.

Item 63. Amend the first unnumbered paragraph of rule 900--90.3(455B, 17A) to read as follows:

900--90.3(455B, 17A) Forms. The following forms are used to apply for construction grants assistance and to provide required documentation in the

grant process. All forms may be obtained from Records Center, Department of Water, Air and Waste Management Environmental Protection Division, Administrative Support Station, Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319. Properly completed forms and all correspondence should be directed to the Construction Grants Administration, Program Operations Division Section, at the above address. Grant applications shall also comply with applicable requirements of Chapters 60 and 64, IAC.

Further amend subrule 900--90.3(3) to read as follows:

90.3(3) State grant forms.

- a. WAWM Form 39 - state grant agreement
- b. WAWM Form 40 - state grant amendment
- c. WAWM Form 41 - state resolution of governing body
- d. CP-C3827 voucher claim
- e. WAWM Form 42 - final cost record

Item 64. Amend paragraphs 900--100.3(1)"a" and "b" to read as follows:

a. A properly completed application shall consist of the application form with all blanks filled in by the applicant, all signatures, and all documents and information required by the solid waste disposal rules. Application forms may be obtained from:

Records Center Administrative Support Station, Environmental Protection Division

Iowa Department of Water, Air and Waste Management Natural Resources  
Henry A. Wallace Building  
900 East Grand  
Des Moines, Iowa 50319

Properly completed forms should be submitted in accordance with the instructions on the form. Where not specified in the instructions, forms should be submitted to the Program Operations Division Solid Waste Section.

b. Application for the following permits or renewals shall be made in triplicate on the forms indicated:

(1) A sanitary disposal project permit pursuant to Iowa Code section 455B.305--Form WAWM43. 542-3199

(2) A temporary permit pursuant to Iowa Code subsection 455B.307(1)--Form WAWM44. 542-1012

(3) A renewal of a sanitary disposal project permit pursuant to subrule ~~27-244~~ 102.2(1)--Form WAWM45. 542-3208

Item 65. Amend the first unnumbered paragraph of subrule 900--100.3(2) and paragraph 100.3(2)"a" to read as follows:

100.3(2) Industrial sludge and toxic and hazardous waste disposal instructions. Requests for special waste authorizations instructions for the disposal of hazardous or toxic waste, as required by ~~403-14(2)~~ 102.14(2) shall be submitted to:

Records Center Administrative Support Station, Environmental Protection Division

Iowa Department of Water, Air and Waste Management Natural Resources  
Henry A. Wallace Building  
900 East Grand  
Des Moines, Iowa 50319

a. Requests shall be made by submitting Form WAWM46 (542-3216) "Request for Special Waste Authorization" accompanied by supporting data as deemed necessary by the department. In case of emergency, instructions may be obtained by telephone by calling 515/281-8692. In those limited circumstances when the waste is unused commercial product in the original container which



has attached legible labels and there is a reasonable certainty that the label accurately represents the contents of the container the owner of this waste need only submit a Waste Disposal of Commercial Products Only form, form WAWM47. (542-3148).

Item 66. Amend subrule 900--103.5(1), paragraph "b", subparagraph (10), second paragraph, as follows:

The collection and preservation of samples shall be done by the highest grade operator at the plant producing the sludge, or his the operator's designee. This shall be done in a manner and frequency approved by the executive director and intended to assure that the sampling results as representative of the sludge being disposed.

Item 67. Amend the first unnumbered paragraph of rule 900--107.1(455C) to read as follows:

900--107.1(455C) Scope. This chapter is intended to implement the provisions of Iowa Code chapter 455C, The Code. The Act requires that on or after May 1, 1979, every alcoholic liquor container, and that on or after July 1, 1979, every beer, mineral water, soda water or carbonated soft drink container sold in Iowa for consumption off the premises of the dealer be subject to a deposit of five cents or more. Such container must have indicated on it that the container is subject to a minimum refund of five cents or must be exempt from the requirement of having a refund value indicated on it. An empty container on which a deposit was made may be returned to any dealer in the state who sells the kind, brand and size of container or may be returned to a redemption center. The dealer or redemption center must accept the empty container and refund the deposit.

Item 68. Amend subrule 900--107.2(2) by striking the first unnumbered paragraph and replacing it with the following:

107.2(2) "Alcoholic liquor" or "intoxicating liquor" means the varieties of liquor defined hereunder in subrule "a" and "b" which contain more than five percent of alcohol by weight, beverages made as described in subrule 107.2(4) which beverages contain more than five percent of alcohol by weight but which are not wine as defined in subrule 107.2(8), and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subrule 107.2(8) containing more than seventeen percent alcohol by weight, and susceptible of being consumed by a human being, for beverage purposes.

Item 69. Amend subrule 900--107.2(4) by striking the subrule and replace it with the following:

107.2(4) "Beer" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

Item 70. Amend subrule 900--107.2(5) by including as a second unnumbered paragraph the following:

"Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.

Item 71. Amend subrule 900--109.5(1) to read as follows:

109.5(1) Form. Any person to whom this chapter applies shall file a completed WAWM Form 98 supplied by the department as specified in subrule 109.5(2).

Item 72. Amend the fourth unnumbered paragraph of rule 900--120.2(455B), "Solid Waste" to read as follows:

"Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, not including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by section 321.1, subsection 1. Nothing herein shall be construed as prohibiting the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal.

Item 73. Amend subrules 900--120.3(1) and (2) to read as follows:

120.3(1) A properly completed application shall consist of the application form with all blanks filled in by the applicant, all signatures, and all documents and information required by the land application rules. Application forms may be obtained from:

Records Center Administrative Support Station, Environmental Protection Division

Iowa Department of Water, Air and Waste Management Natural Resources

Henry A. Wallace Building

900 East Grand

Des Moines, Iowa 50319

Properly completed forms should be submitted in accordance with the instructions for the form. Where not specified in the instructions, forms should be submitted to the Program Operations Division.

120.3(2) Application for a land application permit shall be made on Form WAWM43, "Application for a Sanitary Disposal Project Permit."

Item 74. Amend rule 900--131.2(455B) by substituting for the words "office of disaster services" the words "Disaster Services Division, Department of Public Defense" where it appears.

Item 75. Amend the first unnumbered paragraph of subrule 900--131.2(2) to read as follows:

131.2(2) Written report. The written report of such a hazardous condition should be submitted to the department within five thirty days and contain the following information:

Item 76. Amend rule 900--135.3(455B) by substituting for the words "WAWM Form 148" or "Form 148" (542-3266) the words "the notification form provided by the department" where it appears.

Item 77. Amend rule 900--140.5(455B) to read as follows:

900--140.5(455B) Application for permits and renewals by existing hazardous waste facilities. Any person who owns or operates a facility that treats, stores or disposes of a hazardous waste existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. Such a person is considered to have a permit until such time as a final administrative determination is made if the person has given the notification described in rule 141.212(455B) and has submitted a Part A application; federal EPA forms 3510-1 and 3510-3. Such a person shall submit, upon request of the department or voluntarily at any time, a Part B application. The submission to the department of the information provided for in subrule 141.12(3) and 141.12(4) constitutes a Part B application.

Item 78. Amend rules 900--140.6 and 140.7(455B) to read as follows:

900--140.6(455B) Form for the hazardous waste program--transportation, treatment and disposal fees. Any generator or the owner or operator of a hazardous waste treatment or disposal facility who transports, treats or disposes of hazardous waste is subject to the fees specified in rule

149.4(455B). Such a person must also complete and submit to the department WAWM Form 179 (542-3267),, "Hazardous waste program--transportation, treatment and disposal fees" which is provided by the department.

900--140.7(455B) Form for the analysis and notification requirements for recycled oil. Any supplier or applicator who sells or uses recycled oil for road oiling, dust suppression or weed control is subject to analysis and notification requirements specified in chapter 143. Such a person must also complete and submit to the department WAWM Form 180 which is provided by the department.

Item 79. Amend subrule 900--141.13(15), introductory paragraph, fourth sentence, as follows:

. . . The executive director may also hold a public hearing at his the director's discretion, whenever for instance, such a hearing might clarify one or more issues involved in the permit decision.

Item 80. Amend rule 900--143.4(455B) by substituting for the words "WAWM Form 180" the words "Form 180, the notification form provided by the department" where they appear.

Item 81. Amend subrule 900--149.5(1) to read as follows:

149.5(1) Form. Any person to whom this chapter applies must file a completed WAWM Form 179 "Hazardous waste program--transportation, treatment and disposal fees" which is provided by the department as specified in rule 140.6(455B).

Date \_\_\_\_\_

\_\_\_\_\_  
Larry J. Wilson, Director

Motion was made by Donna Hammitt to approve transfer of existing rules of the Water, Air and Waste Management Department to the Department of Natural Resources, under authority of the Environmental Protection Commission. Seconded by Wayne Gieselman. Motion carried unanimously.

#### NOTICE OF INTENDED ACTION -- DNR CHAPTER 5, RULEMAKING PROCEDURE

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Attached is a draft of proposed DNR rule Chapter 5 - Rulemaking Procedure. This combines and consolidates existing rules of the prior agencies on this subject. The Director will be filing this as a Notice of Intended Action. We propose that this rule be generally applicable to the whole department and thus ask the Commission to join in this Notice, and at a later date in the adoption of these rules.

#### CHAPTER 5 RULEMAKING PROCEDURE

561--5.1(17A, 455A) Procedure for adoption of rules.

5.1(1) Generally. The department shall conduct rulemaking in accordance with the terms of the Iowa administrative procedure Act and other Iowa Code chapters governing the department.

5.1(2) Notice. The department shall give notice of its intended action in accordance with the requirements contained in 5.1(1). The notice shall include the time and place of any opportunity for oral presentation pursuant to 5.1(3).

5.1(3) Opportunity for oral presentation. The department normally will provide an opportunity for oral presentation at a public meeting prior to the adoption of any rule unless the provisions of Iowa Code section 17A.4(2) are utilized. In instances where the department determines that a proposed rule is not likely to generate significant public comment, it may only provide notice under 17A.4(1) and provide opportunity for oral presentation only if requested thereunder.

a. The director's designee shall serve as presiding officer. The presiding officer shall open the meeting, briefly review and explain the proposed action, and schedule and receive the oral presentations.

b. Prior to the meeting, an interested person may indicate a desire to make an oral presentation by submitting a written request to the director. At such a proceeding, any interested person may indicate a desire to make an oral presentation by signing a sheet or card distributed for that purpose. The presiding officer shall allow persons so indicating the opportunity to make oral presentation and shall then allow any other interested person attending such opportunity to make oral presentation provided, however, that the presiding officer may exercise discretion to limit the time for each speaker to ten minutes and the total time of the proceeding to three hours.

c. Whenever possible, a speaker should also submit comments in written form.

d. A written summary of the oral presentations shall be made for consideration by the director or appropriate commission.

5.1(4) Written submissions. Any interested person may submit data, opinions, or arguments in writing on proposed rules within the time specified in the notice of intended action, which time shall not be less than twenty days from publication of the notice of intended action given pursuant to 5.1(2), at the opportunity for oral presentation on the proposed rules, if any, and up to ten days after the opportunity for oral presentation, if any. These should be submitted to the director who shall either transmit them to department staff for review and summarization of substance to the director or appropriate commission, or directly transmit them to the appropriate commission.

5.1(5) Request for statement of reasons. Any interested person may, either prior to the adoption of the rule or within thirty days after adoption, request the director or appropriate commission to issue a concise statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons for overruling considerations urged against the rule.

#### 561--5.2(17A, 455A) Petition for rulemaking.

5.2(1) Petitioners. Any interested person, including any agency of the state or a governmental subdivision, may petition the director or appropriate commission for the promulgation, amendment or repeal of a rule. The petition shall be sent to the director or delivered to the director during normal business hours. The director shall respond to the petition in accordance with 5.2(3) or transmit the petition to the appropriate commission and may make a recommendation to the commission for its disposition.

5.2(2) Contents of petition. The petition shall:

a. State the full name and address of the petitioner.

b. Set forth clearly and concisely the text of the proposed rule change, or as precisely as possible the substance of the proposed rule.

c. State the facts and arguments that favor the proposed rule change, including data, facts, and arguments either in the petition or in a statement annexed to the petition; and

d. Be subscribed by the petitioner, or by a duly authorized officer of the petitioner if it is a corporation, organization, or other legal entity, or shall be subscribed for the petitioner by its attorney, in which case the attorney shall also state the address.

5.2(3) Disposition of petition. Within sixty days following receipt of the petition, the director or commission shall determine whether to grant or deny the petition.

a. If the petition is granted, the director shall notify the petitioner and the director or commission shall initiate rulemaking proceedings in accordance with this rule.

b. If the petition is denied, the director shall send the petitioner a statement which sets forth the reasons for denial of the petition.

These rules are intended to implement Iowa Code sections 17A.7 and chapter 455A.

Motion was made by Nancylee Siebenmann to approve Notice of Intended Action--DNR Chapter 5, Rulemaking Procedure. Seconded by Catherine Dunn. Motion carried unanimously.

#### NOTICE OF INTENDED ACTION--DNR CHAPTER 6, DECLARATORY RULINGS

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Attached is a draft of proposed DNR rule Chapter 6, Declaratory Rulings. This combines and consolidates existing rules of the prior agencies on this subject. The Director will be filing this as a notice of intended action. We propose that this rule be generally applicable to the whole department and thus ask the Commission to join in this notice, and at a later date in the adoption of these rules.

ITEM 1. Adopt a new chapter 561--6(17A), as follows:

#### CHAPTER 6 DECLARATORY RULINGS

561--6.1(17A) Petition for declaratory ruling. A petition for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order, administered by the department may be filed by any person or agency whose rights, status or other legal relations are or may be affected. This chapter applies to matters within the jurisdiction of the director (IAC Parts 561 and 565), the environmental protection commission (IAC Part 567), and the natural resource commission (IAC Part 571).

561--6.2(17A) Contents of petition.

6.2(1) The petition shall contain a caption in the following form:

BEFORE THE IOWA DEPARTMENT OF NATURAL RESOURCES

DES MOINES, IOWA

---

IN THE MATTER OF	)	
THE PETITION OF	)	PETITION FOR
(state petitioner's name)	)	DECLARATORY RULING
FOR A DECLARATORY	)	
RULING ON	)	
(state the number of the	)	DOCKET NO.
statutory section, rule,	)	(filled in
(etc. for which a ruling is	)	by department
requested)	)	staff)

---

6.2(2) The petition must be typewritten or legibly handwritten in ink, and shall state in separate numbered paragraphs:

- a. The full name, address and telephone number of the petitioner.
- b. A clear and concise statement of all relevant facts on which the ruling is requested.
- c. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
- d. The questions petitioner wants answered, stated clearly and concisely.
- e. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
- f. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
- g. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
- h. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

6.2(3) The petition shall be dated and signed by the petitioner, by a duly authorized officer of the petitioner, if it is a corporation, organization, or other legal entity, or by the petitioner's attorney. Also, the name and address of the petitioner's counsel, agent, or representative, if applicable, shall be furnished, along with a statement indicating the person to whom communications concerning the petition should be directed.

6.2(4) The petition shall be addressed to the director and sent by mail or delivered in person. The petition is deemed filed when it is received by the director's office. The department will provide the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy and a self-addressed envelope, postage prepaid, for this purpose.

561--6.3(17A) Briefs. The petitioner may attach a brief to the petition in support of the position urged in the petition. The department may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

561--6.4(17A) Inquiries. Inquiries concerning the status of a petition for a

declaratory ruling may be made to the Chief of the Government Liaison Bureau, Coordination and Information Division.

561--6.5(17A) Disposition of petition.

6.5(1) Agency consideration. Upon request by petitioner, the department may schedule a brief and informal meeting between the petitioner and a member of the staff of the department to discuss the petition. The department may request the petitioner to submit additional information or argument concerning the petition. The request shall be made within fifteen (15) days of receipt of the petition or as directed by one of the department's commissions upon review. The department may solicit comments on those questions presented in the petition and comments on those questions may be submitted to the department by any person.

6.5(2) The director shall either issue a ruling or decline to issue a ruling within thirty (30) days after receipt of the petition or receipt of additional information pursuant to 6.5(1), unless a longer period of time is necessary due to the complexity of the issues or the number of pending petitions. If a longer period of time is needed, the director shall notify the petitioner within thirty (30) days. The petitioner shall be notified by certified mail of the director's action. If the issue is within the rulemaking authority of one of the department's commissions, the ruling or declination, along with the petition and briefs, also shall be mailed to the commission members.

6.5(3) The director may decline to issue a declaratory ruling for any reason deemed just and proper, including but not limited to the following:

- a. The petition does not substantially comply with the required form.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue a ruling.
- c. The department does not have jurisdiction over the questions presented in the petition.
- d. The questions presented by the petition are also presented in a current rulemaking, contested case, or other agency or judicial proceeding, that may definitely resolve them.
- e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
- g. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
- h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to challenge an agency decision already made, which could have been but was not appealed.
- i. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.
- j. The petitioner requests the department to determine whether a statute is unconstitutional on its face.
- k. The factual or legal issues are so complex that a declaratory ruling is not feasible.



1. Dismissal of the petition is necessary to assure an adequate allocation of the department's resources available for the issuance of declaratory rulings to petitions raising questions of public importance or of greater urgency.

Refusal to issue a declaratory ruling pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the department's refusal to issue a ruling.

6.5(4) A ruling, including a refusal to rule, issued by the director is final unless the issue is within the rulemaking authority of one of the department's commissions in which case the ruling or refusal is final unless appealed to the commission within ten days of receipt by the petitioner or reviewed by the commission on its own motion. On appeal or review, the commission may:

- a. Approve the director's ruling, in which case the ruling becomes the final declaratory ruling of the department, or
- b. Reverse or modify the declaratory ruling, in which case the modified ruling becomes the final declaratory ruling of the department, or
- c. Request additional information from the petitioner, or
- d. Decline to issue a ruling, as specified in 6.5(3).

The commission's ruling or refusal to rule shall be made within a reasonable time and shall be sent by certified mail to the petitioner upon issuance.

561--6.6(17A) Declaratory ruling format. All declaratory rulings and refusals to issue a declaratory ruling shall be in writing and shall state reasons in support of the ruling or refusal.

Motion was made by Catherine Dunn to approve Notice of Intended Action--DNR Chapter 6, Declaratory Rulings. Seconded by Clark Yeager. Motion carried unanimously.

#### RULE ADOPTION--567 CHAPTER 1

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Commission is requested to adopt the enclosed chapter 1--Operation of Environmental Protection Commission. The Commission approved a notice of intended action on these rules in September. The comment period expired on October 28. There was one comment, from Jack Soener of the Iowa Association of Business and Industry. Proposed rule 1.5(2)"a" encouraged persons who wished to address the Commission on a matter on the agenda to notify the Director at least five days before the meeting. Mr. Soener questioned why a five-day period was mentioned, in light of the fact that people may not always be informed of the agenda items that far in advance of the meeting. We agree that this time frame is not appropriate and have changed the language to encourage notification at least one work day before the meeting.

#### ENVIRONMENTAL PROTECTION COMMISSION (567) ADOPTED RULE

Pursuant to the authority of 1986 Iowa Acts, Senate File 2175, section 1806; Iowa Code section 17A.3(1)"a"; and Iowa Code section 455B.105, as amended by 1986 Acts, Senate File 2175, section 1887, the Environmental Protection Commission of the Department of Natural Resources adopts a new Chapter 1 governing the operation of the commission. The Notice of Intended Action was



published in the October 8, 1986 IAB, as ARC 7017. The rule was adopted on November 13, 1986.

One change from the proposed was made in response to a comment from the public. The suggested five-day notice period in 1.5(2)"a" was deleted.

This rule is intended to implement Iowa Code sections 17A.3(1)"a" and 455A.6.

This rule is intended to become effective January 7, 1987, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

---

Item 1. Rescind 900--Chapter 2, and adopt a new 567--Chapter 1, as follows:

#### CHAPTER 1

#### OPERATION OF ENVIRONMENTAL PROTECTION COMMISSION

567--1.1(17A; 455A) Scope. This chapter governs the conduct of business by the environmental protection commission. Rulemaking proceedings held as part of commission meetings and contested case proceedings involving the commission are governed by other rules of the department.

567--1.2(17A; 455A) Time of meetings. The commission meets at least quarterly, and usually meets monthly. The director, the chairperson, or a majority of the commission may establish meetings at more frequent intervals. Normally, the time of the next meeting will be determined in the current commission meeting.

567--1.3(17A; 455A) Place of meetings. Meetings are generally held in the Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa. The commission may meet at other locations from time to time; if so the meeting place will be specified in the agenda.

567--1.4(17A; 455A) Notification of meetings. The director of the department shall provide public notice of all meeting dates, locations, and tentative agenda.

1.4(1) Form of notice. Notice of meetings is given by posting the tentative agenda and by distribution upon request. The agenda lists the time, date, place, and topics to be discussed at the meeting. The agenda shall include a specific time for the public to address the commission on any issue related to the duties and responsibilities of the commission, except as otherwise provided in these rules.

1.4(2) Posting of agenda. The tentative agenda for each meeting will be posted at the department's offices on the fourth and fifth floors, Henry A. Wallace Building, normally at least seven days prior to the meeting. Agenda will be posted at least twenty-four hours prior to the meeting, unless, for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.

1.4(3) Distribution of agenda. Agenda will be mailed to anyone who files a request with the director. The request should state whether the agenda for a particular meeting is desired, or whether the requestor desires to be on the department's mailing list to receive the agenda for all meetings of the environmental protection commission.

1.4(4) Amendment to agenda. Any amendments to the agenda after posting and distribution under (2) and (3) will be posted, but will not be mailed. The amended agenda will be posted at least twenty-four hours prior to the meeting,

unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. The commission may adopt amendments to the agenda at the meeting only if good cause exists requiring expeditious discussion or action on such matters. The reasons and circumstances necessitating such agenda amendments, or those given less than twenty-four hours notice by posting, shall be stated in the minutes of the meeting.

1.4(5) Supporting material. Written materials provided to the commission with the agenda may be examined and copied as provided in 900--4.1 I.A.C. Copies of the materials may be distributed at the discretion of the director to persons requesting the materials. The director may require a fee to cover the reasonable cost to the department to provide the copies, in accordance with 900--4.1(4), I.A.C.

567--1.5(17A; 455A) Attendance and participation by the public.

1.5(1) Attendance. All meetings are open to the public. The commission may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5.

1.5(2) Participation.

a. Items on agenda. Presentations to the commission may be made at the discretion of the chairperson. Persons who wish to address the commission on a matter on the agenda are encouraged to notify the director at least one work day before the meeting.

b. Items not on agenda. Because Iowa Code section 21.4 requires the commission to give notice of its agenda, the commission discourages persons from raising matters not on the agenda. Persons who wish to address the commission on a matter not on the agenda should file a request with the director to place that matter on the agenda of the subsequent meeting.

c. Meeting decorum. The chairperson may limit participation as necessary for the orderly conduct of agency business.

1.5(3) Use of cameras and recording devices. Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. The chairperson may order the use of these devices be discontinued if they cause interference, and may exclude those persons who fail to comply with that order.

567--1.6(17A; 455A) Quorum and voting requirements.

1.6(1) Quorum. A majority of the members of the commission constitutes a quorum.

1.6(2) Voting. The concurrence of a majority of the members of the commission is required to determine any matter before the commission for action, except for a vote to close a meeting which requires the concurrence of two-thirds of the members of the commission, or the concurrence of all members present if less than two-thirds are present.

567--1.7(17A; 455A) Conduct of meeting.

1.7(1) General. Meetings will be conducted in accordance with Robert's Rules of Order unless otherwise provided in these rules. Voting shall be by voice or by roll call. Voting shall be by voice unless a voice vote is inconclusive, a member of the commission requests a roll call, or the vote is on a motion to close a portion of a meeting. The chairperson shall announce the result of the vote.

1.7(2) Voice votes. All commission members present should respond when a voice vote is taken. The response shall be aye, nay, or abstain.

a. All members present shall be recorded as voting aye on any motion when there are no nay votes or abstentions heard.

b. Any member who abstains shall state at the time of the vote the reason for abstaining. The abstention and the reason for it shall be recorded in the minutes.

1.7(3) Provision of information. The chairperson may recognize any agency staff member for the provision of information relative to an agenda item.

567--1.8(17A; 455A) Minutes, transcripts, and recordings of meetings.

1.8(1) Recordings. The director shall record by mechanized means each meeting, and shall retain the recording for at least one year. Recordings of closed sessions shall be sealed and retained at least one year.

1.8(2) Transcripts. The department does not routinely prepare transcripts of meetings. The department will have transcripts of meetings, except for closed sessions, prepared upon receipt of a request for a transcript and payment of a fee to cover the cost to the department of preparing the transcript.

1.8(3) Minutes. The director shall keep minutes of each meeting. Minutes shall be reviewed and approved by the commission, and retained permanently by the director. The approved minutes shall be signed by the director and the chairperson and secretary of the commission.

567--1.9(17A; 455A) Officers and duties.

1.9(1) Officers. The officers of the commission are the chairperson, the vice chairperson, and the secretary.

1.9(2) Duties. The chairperson shall preside at meetings, and shall exercise the powers conferred upon the chairperson. The vice chairperson shall perform the duties of the chairperson when the chairperson is absent or when directed by the chairperson. The secretary shall supervise the preparation of minutes, make recommendations to the commission on approval or revision of the minutes, and act as parliamentarian.

567--1.10(17A; 455A) Election and succession of officers.

1.10(1) Elections. Officers shall be elected annually during May.

1.10(2) Succession.

a. If the chairperson does not serve out the elected term, the vice chairperson shall succeed the chairperson for the remainder of the term. A special election shall be held to elect a new vice chairperson to serve the remainder of the term.

b. If the vice chairperson does not serve out the elected term, a special election shall be held to elect a new vice chairperson to serve the remainder of the term.

c. If the secretary does not serve out the elected term, a special election shall be held to elect a new secretary to serve the remainder of the term.

These rules are intended to implement Iowa Code sections 17A.3(1)"a" and 455A.6.

November 13, 1986

Larry J. Wilson, Director

Discussion followed regarding the public addressing an agenda item. Motion was made by Catherine Dunn to delete the second sentence under 1.5(2) eliminating the need to give one day prior notice to address an agenda item. Seconded by Clark Yeager. Motion carried unanimously.

Motion was made by Catherine Dunn to approve Final Rule--567 Chapter 1, Operation of Environmental Protection Commission as amended. Seconded by Donna Hammitt. Motion carried unanimously.

#### PUBLIC PARTICIPATION

Chairman Schlutz announced public participation at 10:35 a.m., no one present requested to speak.

Chairman Schlutz asked the public to introduce themselves.

Clark Yeager stated that he has noticed Dave Meyers at all of the Environmental Protection Commission meetings and asked to have him on our agenda to explain how the Commission fits in with his department. Mr. Meyers stated that he would be happy to be on the agenda.

#### REFERRAL TO THE ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The Department requests approval to refer Orchard Mobile Home Court of Cedar Rapids to the Attorney General for appropriate legal action for allegedly violating an administrative order to sample the public water supply. A litigation report has been sent to the Commissioners and is to be maintained as confidential, pursuant to Iowa Code Section 22.7(4).

Mr. Combs stated that he would like to remove the referral for Orchard Mobile Home Court from the agenda as the Department received the penalty that was due from last month's referral. Also received was their application for an operation permit with payment for same. Since these items came in just yesterday, staff would like to have an opportunity to see if this facility is now in compliance.

#### WOODLAND PORK -- APPEAL OF PROPOSED DECISION

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

The department issued an administrative order to Woodland Park on January 8, 1986. Daryl Larson, DVM, appealed the order on behalf of Woodland Park on February 12, 1986. A hearing before a hearing officer was held on April 9 and 15, 1986. The proposed decision of the hearing officer was issued on May 29, 1986.

Dr. Larson mailed a notice of appeal of the proposed decision to the Commission on September 5, 1986. The department filed its "Exceptions and Brief" in this matter on September 25, 1986. Woodland Park filed no exceptions or brief and filed no response to the departments filing. The proposed decision and the department's brief are attached. The hearing record is available for review at the Commission's convenience.

Normally, on appeal, the Commission may affirm, modify or reverse the hearing officer's decision, based on the record. The department's brief in this appeal raises the additional issue of the timeliness of appeal and jurisdiction of the Commission.

Motion was made by Wayne Gieselmann to uphold the decision of the hearing officer. Seconded by Charlotte Mohr. Motion carried unanimously.

#### L.U.S.T. RULES PROGRESS REPORT

Director Larry Wilson reported that the ad hoc committee on L.U.S.T. met on October 27. He stated that they discussed their different beliefs and opinions concerning the L.U.S.T. rules. Basically, the main differences are in the area of monitoring of underground storage tanks. The committee decided to break that into two categories, those being: (a) how to monitor new tanks that are installed, and (b) the monitoring requirements for existing tanks. There is some concern that rules that are being promulgated now may later be changed because of the EPA's rules that are supposedly forthcoming. There is an opinion that through monitoring of the product contained in those underground tanks, that the proper monitoring of that inventory is adequate to detect any leakage. The other position on the subject is that this method is not adequate and in order to adequately detect leakage, there has to be monitoring wells.

Also discussed was the possibility of requiring certified installers for underground tanks. Mr. Wilson reiterated that the Department does not have the authority to require certified installers. It would take a change in the Code to require certified installers.

There will be another meeting of this committee on November 19.

Director Wilson stated that he attended the Legislative Interim Committee meeting on Water Quality on Monday of this week, and there was considerable consternation from the committee that the Department did not proceed faster with the rules. They are concerned that things are not moving forward, so we need to be aware of that. Some of their comments were that we should be more concerned about our responsibility to environmental protection and less concerned about some of the other considerations we have discussed.

#### DIRECTOR'S REPORT

Director Wilson reported that there will be a Midwest Low Level Radioactive Compact meeting in the afternoon and evening today. He stated that he and Allan Stokes attended other meetings on this subject in Council Bluffs on Monday, Cedar Rapids on Tuesday, and Ankeny on Wednesday of this week. The meetings are part of the public information process on siting selection of a host state from the seven member states of the Compact.

Wayne Gieselman inquired about the process for selection of a host state. Director Wilson stated that there are two things they are looking at, the first being the amount of waste generated in individual states by volume, and the amount generated by the degree of radioactivity. Also, they are taking into consideration the travel distance and traffic accident rates on the selected routes.

A film on this subject was shown to the Commissioners.

Discussion followed.

#### ADDRESS ITEMS FOR NEXT MEETING

Clark Yeager stated he would like an explanation on 455B.111 reference to a provision allowing citizen suits against the Commission and what the liability is for individual commissioners and the state.

#### NEXT MEETING DATES

December 15-16, 1986  
January 19-20, 1987  
February 16-17, 1987

#### ADJOURNMENT

Motion was made by Catherine Dunn to adjourn. Seconded by Nanoylee Siebenmann. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at noon, Thursday, November 13, 1986.

---

Larry J. Wilson, Director

---

Charlotte Mohr, Secretary

(EP/C/11-86)